

AL-05-000-4971



OFFICE OF THE GOVERNOR

March 16, 2005

RICK PERRY  
GOVERNOR

Mr. Stephen L. Johnson  
Acting Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

RE: Texas Emissions Reduction Plan (TERP) and 8-Hour SIP Attainment

Dear Administrator Johnson:

Texas has proven to be a leader in innovative technologies as they relate to air quality. We have shown our commitment to reaching attainment by enacting and fully funding our voluntary Texas Emissions Reduction Plan (TERP) program. To date, more than 282 emissions reduction projects, expected to yield a reduction of 21,123 tons of nitrogen oxide emissions, have been awarded by the Texas Commission on Environmental Quality.

Though many of the currently funded diesel retrofits are having a strong impact in nonattainment areas, it is clear that this method offers only short-term solutions, as retrofits have a life expectancy of approximately five years. To extensively address the state's air quality needs, there must be a commitment to new technology and research that will foster more long-term solutions. As envisioned, such an approach would be more comprehensive, addressing areas that include prevention, removal, destruction, sampling, monitoring and modeling of pollutants from stationary, mobile and indoor sources. Ultimately, dedicating more money to research and development will expedite the development of new technologies that will benefit not only Texas but also all other states across the nation.

I urge your consideration of providing credits to our State Implementation Plan for all new research and technology developments funded by TERP and other state funds geared toward pollution reduction.

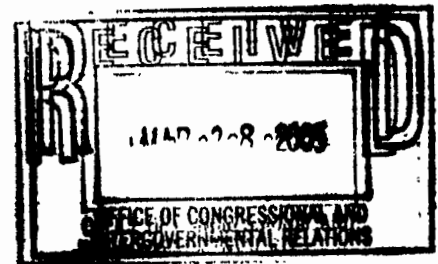
Thank you for your service to our great nation.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry".  
Rick Perry  
Governor

RP:zcp

cc: Ms. Kathleen Hartnett White, Chairwoman, TCEQ  
Mr. Ralph Marquez, Commissioner, TCEQ  
Mr. Larry Soward, Commissioner, TCEQ  
Mr. Glenn Shankle, Executive Director, TCEQ





AL-05-001-9165

**OFFICE OF THE GOVERNOR**

RICK PERRY  
GOVERNOR

December 12, 2005

The Honorable Steven Johnson  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

RE: Clean Air Interstate Rule and West Texas

Dear Administrator Johnson:

As you are aware, on May 12, 2005, the U.S. Environmental Protection Agency (EPA) promulgated the Clean Air Interstate Rule (CAIR) to address long-range transport of particulate matter from power plants to cities with poor air quality in the eastern part of the United States. I am writing to encourage EPA to exclude the portion of Texas west of Interstate Highway 35 (West Texas) from CAIR.

Based on my review of the facts, the rationale for the inclusion of West Texas in CAIR was not the protection of public health or the environment. EPA's own data indicate that emissions from power plants located in West Texas have miniscule, if any, impact on the states that CAIR is designed to protect. If West Texas were a separate state, it would almost certainly have been properly excluded. In fact, Kansas and Oklahoma, neighboring states with very similar emissions patterns, were both excluded from the final rule, even though West Texas emissions would need to travel across those states to reach the eastern United States. It would appear that the entire State of Texas was included under the CAIR rule, not for the purposes of sound public policy, but for the administrative convenience of the agency.

You are undoubtedly aware that on June 18, 2005, I signed into law House Bill 2481, part of which directed the Texas Commission on Environmental Quality (TCEQ) to adopt by reference the federal model for the CAIR rule, as well as the Mercury rule. Included in that legislation was a provision mandating TCEQ to take "all reasonable and necessary steps" to persuade EPA to revisit the CAIR rule and exclude West Texas. My staff was directly involved in the negotiations on those provisions of HB 2481, as were many representatives of the energy

The Honorable Steven Johnson

December 12, 2005

Page 2

industry and the environmental community. The resulting language was adopted unanimously by both chambers of the legislature.

It is my understanding that you are in receipt of several letters similar to this one, from statewide elected officials in Texas, from locally elected senators and representatives from West Texas, and from TCEQ commissioners with substantive expertise in air quality issues. All of these public servants have reached the same conclusion: Inclusion of West Texas in CAIR imposes a tremendous burden on the residents of West Texas while providing only marginal benefit to the eastern United States.

As you weigh all the issues related to this important decision, I hope you will also consider the impact that compliance with this rule will have on the price of electricity in Texas. Already Texas has borne the burden of Hurricane Rita as well as the impact of Katrina on our energy resources (not to mention the evacuee relocation efforts). The rebuilding costs related to these natural disasters have been staggering. The pricetag associated with CAIR compliance will reach tens to hundreds of millions of dollars, adding significantly to the price of electricity, and all without measurable progress towards the goals outlined in CAIR.

I appreciate your consideration of the issues I have raised.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly stylized font. The "R" is large and loops around the "ick". The "Perry" is written in a similar cursive style, with the "y" having a long, sweeping tail.

Rick Perry  
Governor

RP:zcp



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 22 2006

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
Post Office Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter of December 12, 2005, encouraging the U.S. Environmental Protection Agency (EPA) to exclude West Texas from the Clean Air Interstate Rule (CAIR). In your letter, you state that including West Texas in CAIR would impose a tremendous burden on the residents of West Texas and provide only marginal benefits to the Eastern United States.

Your letter also notes that on June 18, 2005, you signed into law House Bill 2481, which included a provision mandating the Texas Commission on Environmental Quality (TCEQ) to take steps to persuade EPA to revisit CAIR and exclude West Texas. TCEQ responded by submitting to US EPA a petition for reconsideration of West Texas, following publication of the final CAIR in the Federal Register. We expect to issue a decision on whether to reconsider the inclusion of West Texas in CAIR, by March 15, 2006.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Dona DeLeon, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "S. L. Johnson", is written over the typed name.

Stephen L. Johnson

AL-07-000-6892



RECEIVED

2007 APR 24 AM 7:47

OFFICE OF THE GOVERNOR

April 18, 2007

OFFICE OF THE  
EXECUTIVE SECRETARAT

RICK PERRY  
GOVERNOR

The Honorable Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator Johnson:

It is with great concern that I write you about EPA's re-examination of the National Ambient Air Quality Standard for ozone. It is imperative that EPA consider current progress the State of Texas has made to improve air quality in this state and I strongly urge you to work with states on any plan to change air quality standards.

I fully support ozone standards that protect human health and the environment. I also believe you can provide this protection while ensuring economic prosperity. There is a healthy balance between the two as we have proven in Texas.

We have taken great strides in reducing industrial sources of pollution while maintaining our industrial economy. The major challenge we face in trying to reach attainment under the current ozone standard is the emissions from automobiles. As you know, Texas has been a pioneer in finding innovative ways to address mobile source emissions through the creation of the Texas Emissions Reduction Plan. While this has been a tremendous success in reducing NOx emissions from heavy-duty off-road equipment and railroad engines, we struggle with reducing automobile and interstate truck emissions.

It is imperative that EPA consider cleaner fuel standards and engine efficiencies in vehicles prior to adoption of more stringent ozone standards. Given that states are economically preempted from regulating auto emissions, the federal government should consider adopting new federal standards that help improve these emissions. It is also important that sufficient time is allocated for these standards to be realized in the market.

The State of Texas stands ready to work with you and evaluate any additional proposals you may have on this and other important environmental issues in the future.

Sincerely,

*Rick Perry*  
Rick Perry  
Governor

RP:zcp

cc: Mr. James L. Connaughton, Chairman, Council on Environmental Quality



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**MAY 16 2007**

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
State Capitol  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter of April 18, 2007, regarding the Environmental Protection Agency's (EPA) review of the national ambient air quality standards (NAAQS) for ozone. I appreciate your interest in this important issue.

I expect to issue a proposed rule regarding the appropriateness of revising the standards by June 20, 2007. I encourage you to continue to provide the Agency with any scientific information that you believe to be important for me to consider, both in advance of the proposal and afterward as we move toward a final decision by March 12, 2008.

Under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the health and environmental effects evidence. The Agency thoroughly considers all available scientific and technical information. I am prohibited from considering costs or feasibility of implementation in setting the NAAQS. For this reason, the Agency does not produce economic analysis to inform decisions about what revisions, if any, will be proposed.

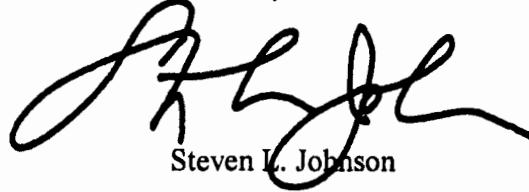
With regard to your recommendation that EPA consider cleaner fuel standards and engine efficiencies because states are pre-empted from regulating such emissions, please be assured that the Agency continues to pursue an aggressive effort to control emissions from vehicles, engines and fuels. EPA is also committed to working with states on the development of plans to bring nonattainment areas into compliance with the applicable health-based air quality standard.

I appreciate the importance of this decision to Governors. At my direction, my staff has made a special effort to reach out to Governors' staff to establish an open dialogue and provide timely information. We will continue to do so. And, of course, I am willing to discuss this issue further with you or any group of Governors.

Your comments and recommendations have been forwarded to the docket for this rulemaking (Docket ID No. EPA-HQ-OAR-2005-0172) and will be taken into consideration as we move forward in the review process. When we issue a proposal in June, we will be actively seeking further public input, and we hope that you will provide additional, detailed comments on any proposed options at that time.

Again, thank you for your letter. If you have further questions or concerns, please contact me, or your representative may call Mayor Randy Kelly in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3126.

Sincerely

A handwritten signature in black ink, appearing to read 'S. Johnson', with a large, stylized initial 'S' and a long, sweeping horizontal stroke at the end.

Steven L. Johnson



## OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

June 15, 2007

Stephen L. Johnson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Johnson:

On May 23, 2007, the Texas Commission on Environmental Quality (TCEQ), adopted the revisions of the State Implementation Plan pertaining to the Houston-Galveston-Brazoria (HGB) ozone nonattainment area and the Dallas-Fort Worth ozone nonattainment area. Because the HGB area is classified as a *moderate* nonattainment area for the eight-hour National Ambient Air Quality Standard (NAAQS) under the Federal Clean Air Act, the HGB area is required to attain the eight-hour ozone NAAQS by June 2010. Through extensive analysis, the TCEQ has determined that it is practicably impossible for the HGB area to meet the 2010 attainment date. In letters dated April 17, 2007 and May 21, 2007 from Administrator Greene and Acting Administrator William Wehrum to the TCEQ Chairman, EPA encouraged Texas to pursue a reclassification and described minimum requirements to fulfill SIP submittal obligations for the HGB area.

Therefore, concurrent with our SIP revisions, consistent with EPA's current guidance, and pursuant to Federal Clean Air Act § 107 (d)(3)(D), I request a reclassification of the HGB nonattainment area. Although preliminary technical data indicates that TCEQ's significant improvement is expected through 2013, more time is needed to demonstrate attainment. I request that the HGB area's ozone designation be reclassified to *severe*, with an attainment date of June 15, 2019.

Given the huge population, one of the largest and most comprehensively controlled petrochemical complexes in the world, and subtropical climate, the HGB area faces great challenges in meeting the eight-hour ozone standard. Modeling indicates that not even a complete shut down of the Houston Ship Channel industrial area would bring about sufficient reductions to bring the HGB area into attainment by 2010. Nevertheless, Texas has developed stringent and innovative regulations for the HGB area that aggressively address nitrogen oxides and volatile organic compounds. Estimated costs of implemented industry controls are currently at \$3 billion.

As acknowledged by Administrator Greene's letter, Texas has made tremendous progress over the past 15 years in addressing ozone in the HGB area. The one-hour ozone rules, which will not be fully implemented until 2008, have already decreased the ozone design value from around 220 parts per billion (ppb) in 1991 to 169 ppb in 2005. TCEQ analysis predicts the area of exceedance of the eight-hour standard will decrease over 80 percent from 2000 to 2009 (from 23,400 square kilometers to 4416 square kilometers). These decreases are expected to continue despite a rapid growth in the area's economy and population.

Within the next several years, major mobile source reductions and updated ozone model episodes are needed for HGB to demonstrate attainment. Since mobile sources are estimated to account for 54 percent of the overall nitrogen oxide emissions in HGB by 2009, reductions in this area are critical. Emissions from mobile sources will continue to decrease every year as new federal fuel and engine standards are implemented. Nitrogen oxide emissions from on-road mobile sources will decrease around 10% per year without any further state regulation. Texas has addressed mobile source emissions, not pre-empted by federal law, as much as possible through programs such as the Texas Emission Reduction Program (TERP) and Texas low emission diesel (TxLED). Over \$200 million has been spent on TERP alone in HGB since 2001. Additionally, Texas has just completed Texas Air Quality Study II (TexAQS II) which was in part funded with \$9 million in state funds since 2004. The data from TexAQS II will be used to develop new episodes for 2005 and 2006 that will result in a more robust, technically-sound, and economically-feasible SIP that will get the HGB area into attainment as soon as practicable.

Texas will work with the EPA to establish an appropriate deadline for SIP submission. We understand that the deadline for a SIP submission should be as soon as practicable but not later than June 15, 2010. I can assure you that Texas will do everything feasible to achieve attainment in HGB as soon as practicable in order to protect public health, while maintaining a strong economy.

Sincerely,

**Rick Perry**

Rick Perry  
Governor of Texas

RP:zc



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

JUL 10 2007

The Honorable Rick Perry  
Governor of Texas  
Austin, TX 78711

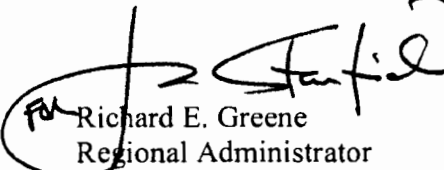
Dear Governor Perry:

Thank you for your letter dated June 15, 2007, requesting that Houston-Galveston-Brazoria (Houston) be reclassified to a "severe" 8-hour ozone nonattainment area based on your determination that it will not be able to meet its "moderate" area attainment date of June 15, 2010. Section 181(b)(3) of the Clean Air Act provides that the U.S. Environmental Protection Agency shall grant the request of any State to reclassify a nonattainment area in that State to a higher classification. We will begin the process to reclassify the Houston nonattainment area to severe based on your request.

Severe areas must attain the 8-hour ozone National Ambient Air Quality Standard no later than June 15, 2019. In the attainment demonstration State Implementation Plan (SIP) that is to be submitted for Houston, the State must demonstrate that the attainment date that it adopts for the Houston area is as expeditious as practicable. We request that the Texas Commission on Environmental Quality (TCEQ) provide information to show the amount of time needed for the State to submit its plan as soon as practical. We will work with the TCEQ on setting a date for submission of the new SIP obligations and ensuring interim progress in reducing emissions prior to attainment, consistent with Clean Air Act requirements.

Again, thank you for your letter and for your commitment to achieving attainment in the Houston area. If you have any questions, please contact me or your staff may call Carl Young of my staff at (214) 665-6645.

Sincerely yours,

  
Richard E. Greene  
Regional Administrator

cc: Kathleen Hartnett White, Chairman  
Texas Commission on Environmental Quality

AL-07-001-3727



RECEIVED

2007 AUG 22 AM 11:04

**OFFICE OF THE GOVERNOR**

OFFICE OF THE  
EXECUTIVE SECRETARAT

RICK PERRY  
GOVERNOR

August 14, 2007

The Honorable Dianne Feinstein  
Chairwoman  
Appropriations Subcommittee on the Interior, Environment and Related Agencies  
331 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Norman Dicks  
Chairman  
Subcommittee on Interior and the Environment  
B-308 RHOB  
Washington DC 20515

The Honorable Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

Dear Senator Feinstein, Congressman Dicks and Administrator Johnson:

As you provide your leadership in the development of funding level recommendations for the FY08 appropriations process and FY09 U.S. Environmental Protection Agency (EPA) budget, I respectfully request that you consider increased budget support for the US-Mexico Border Program in EPA's State and Tribal Assistance Grants, which funds the Project Development Assistance Program (PDAP) and Border Environment Infrastructure Fund (BEIF).

The US-Mexico Border Program was specifically created to address a backlog of environmental infrastructure needs existing prior to NAFTA and anticipated to be further exacerbated by the industrialization of the region with the implementation of the treaty. Since its inception the program has clearly demonstrated success by leveraging other sources of funds and facilitating the construction of \$1.4 billion in drinking water and wastewater infrastructure; providing technical assistance to 130 communities; and eliminating nearly 300 million gallons per day of untreated or inadequately treated discharges.

In addition to the human health and environmental benefits associated with adequate water and wastewater services the US-Mexico Border Program has also fostered other benefits related to institutional capacity building for utilities as well as socio-economic advancements for residents of the border region. These value-added benefits include efforts to establish appropriate user rate

The Honorable Dianne Feinstein  
The Honorable Norman Dicks  
The Honorable Stephen L. Johnson  
August 14, 2007  
Page 2

structures to provide sufficient revenues for the current and future needs, resulting in sustainable projects. Furthering sustainability, these projects motivate communities to build viable regional consensus on water issues and to conduct local planning and zoning efforts to revitalize colonia areas to meet improved living standards and to prevent future development of such sub-standard development conditions. Local resources such as employment, education, health services, and many other basic needs are more easily available with the existence of infrastructure. Finally, this condition has also lead to a greater ability to sustain economic development, which has local, regional and national impacts on both sides of the border.

As a governor representing a border state, I also understand and support the investment of U.S. dollars for environmental infrastructure projects as well as applied projects in both the U.S. and in Mexico where there is a benefit to the US. I recognize the domestic impact of improving the environmental and human health conditions immediately south of the U.S.-Mexico Border and its direct impact to the quality of life in our U.S. communities.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, flowing style with a large, prominent "R" and "P".

Rick Perry  
Governor

RP:rhk

cc: The Honorable Barbara Boxer  
The Honorable Jon Kyl  
The Honorable Jeff Bingaman  
The Honorable Kay Bailey Hutchison  
The Honorable Susan Davis  
The Honorable Duncan Hunter  
The Honorable Raul Grijalva  
The Honorable Tom Udall  
The Honorable Sylvestre Reyes  
The Honorable Henry Cuellar  
The Honorable Solomon Ortiz  
Mayor Richard Greene, Region 6 Administrator, EPA  
Mr. Wayne Nastri, Region 9 Administrator, EPA

The Honorable John McCain  
The Honorable Pete Domenici  
The Honorable John Cornyn  
The Honorable Bob Filner  
The Honorable Ed Pastor  
The Honorable Gabrielle Giffords  
The Honorable Steve Pearce  
The Honorable Ciro Rodriguez  
The Honorable Ruben Hinojosa  
The Honorable Charlie Gonzalez



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 25 2007

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
Post Office Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter of August 14, 2007, requesting increased funding to support the U.S.-Mexico Border program.

The U.S.-Mexico Border program reflects EPA's principal effort to provide drinking water and wastewater infrastructure projects to impacted communities. We recognize the importance of this program and that its successes have been instrumental in improving the quality of life in U.S. communities in the border region. Furthermore, we are continually seeking ways to improve the program. For example, we recently developed reforms to optimize project completion rates, enhance program oversight, and improve fiscal management practices. Through this work, EPA will ensure steady progress in providing access to clean drinking water and adequate sanitation.

I appreciate and recognize your concern for the U.S.-Mexico Border program. As we continue to develop EPA's FY 2009 budget, your request will receive full consideration in the context of the Administration's priorities and EPA's ongoing efforts to improve the program.

Again, thank you for your letter. If you have further questions, please contact me or your representative may call Mayor Randy Kelly, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-3126.

Sincerely,

A handwritten signature in black ink, appearing to read "S. L. Johnson", is written over the typed name. The signature is fluid and cursive.

Stephen L. Johnson



AL-07-001-5258

## OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

September 5, 2007

The Honorable Paul D. Clement  
Solicitor General of the United States  
Office of the Solicitor General  
950 Pennsylvania Avenue, NW, Room 5143  
Washington, D.C. 20530-0001

RE: *Riverkeeper Inc., et al. v. EPA*

Dear General Clement:

I am writing to urge you to file a petition for *certiorari* to the United States Supreme Court to overturn the Second Circuit's decision on the Environmental Protection Agency's (EPA's) cooling water intake structures rule. (Phase II rule). *Riverkeeper, Inc. v. EPA*, Nos. 04-6692-ag(L) et al. (2d Cir. 2007) ("*Riverkeeper II*"). The decision, if left unchallenged, will have a substantial impact on the State of Texas and, nationally, on the availability of safe, reliable and cost-effective energy supplies.

As you are aware, the Phase II rule established national performance standards for certain electric generating facilities to minimize environmental impacts associated with cooling water intake structures. I strongly support that goal. However, the rule also recognized the importance of providing states the flexibility to consider costs in the selection of the technology to be used at individual facilities to meet the goal. As a state that is responsible for issuing permits under the Clean Water Act, having that flexibility is critical to our ability to protect the environment, while also ensuring an economical and reliable supply of energy.

The *Riverkeeper II* decision raises legal and public policy issues of national significance regarding environmental protection and energy supplies that warrant Supreme Court review. Furthermore, the decision takes a position regarding consideration of costs that is not only inconsistent with 30-years of practice, but also inconsistent with decisions of other federal courts that have considered the same question in analogous situations.

Requesting Supreme Court review of the *Riverkeeper* decision will provide an opportunity to restore the ability of states to make decisions that appropriately address two important goals --

The Honorable Paul D. Clement  
September 19, 2007  
Page 2

protecting the environment and providing energy.

For these reasons, I urge you to seek Supreme Court review of this decision. If the United States is not prepared to seek Supreme Court review on its own, I urge that you at least support the petitions that will be filed by the electric utility industry to reverse this case.

Thank you for your consideration of my input on this important matter.

Sincerely,



Rick Perry  
Governor

RP:zcp

cc: The Honorable Samuel Bodman, Secretary, Department of Energy  
Mr. Stephen L. Johnson, Administrator, U.S. Environmental Protection Agency  
Mr. James Connaughton, Chairman, White House Council on Environmental Quality  
Texas Congressional Delegation

AL-07-001-5555

Office of the Governor  
Capitol Station  
Austin, Texas 78711-2428  
Phone: (512) 463-2000  
Fax: 512/463-0039

To: Mr. Stephen L. Johnson

Fax: 202-<sup>501</sup>~~504~~-1450

US EPA

From: Rick Perry

Date: September 19, 2007

Pages Excluding Cover Sheet 02

Comments:

**CONFIDENTIALITY NOTICE:** The information contained in this facsimile transmission is confidential. It may also be subject to the attorney-client privilege or others as work product or as proprietary information. This information is intended for the exclusive use of the addressee named. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee named above), copying, or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify us by telephone to arrange the return of the document.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CONTACT US IMMEDIATELY AT 512/463-0039.

09/13/2007 15:28 5124247168

PAGE 02/02

**PROCLAMATION**

BY THE

**Governor of the State of Texas**

2007 SEP 21 AM 11:28

EX-100

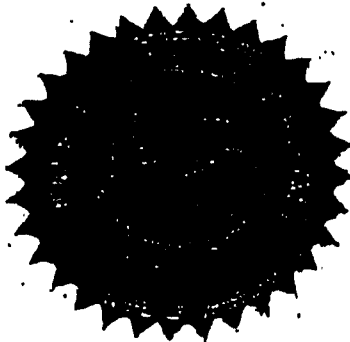
TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of Texas, do hereby certify that as a result of Hurricane Humberto, the severe storms and flooding that began on September 12, 2007, and is continuing, have caused a disaster in Galveston, Jefferson, and Orange Counties in the State of Texas.

THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby proclaim the existence of such threat and direct that all necessary measures both public and private as authorized under Section 418.015 of the code be implemented to meet that threat.

As provided in section 418.016, all rules and regulations that may inhibit or prevent prompt response to this threat are suspended for the duration of the incident.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.



IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 13th day of September, 2007.

*Rick Perry*  
RICK PERRY  
Governor

Attested by:

*Phil Wilson*  
PHIL WILSON  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
12:45 PM, 9/14/07  
SEP 18 2007

&lt;&lt;Prev Rule

**Texas Administrative Code**

Next Rule&gt;&gt;

**TITLE 30****ENVIRONMENTAL QUALITY****PART 1****TEXAS COMMISSION ON ENVIRONMENTAL QUALITY****CHAPTER 114****CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES****SUBCHAPTER H****LOW EMISSION FUELS****DIVISION 2****LOW EMISSION DIESEL****RULE §114.312****Low Emission Diesel Standards**

(a) No person shall sell, offer for sale, supply, or offer for supply, dispense, transfer, allow the transfer, place, store, or hold any diesel fuel in any stationary tank, reservoir, or other container in the counties listed in §114.319 of this title (relating to Affected Counties and Compliance Dates), that may ultimately be used to power a diesel fueled compression-ignition engine in the affected counties, that does not meet either the low emission diesel fuel (LED) standards of subsections (b) and (c) of this section, or the requirements of subsection (f) of this section.

(b) The maximum aromatic hydrocarbon content of LED is 10% by volume per gallon; or the LED has been reported in accordance with all of the requirements of §114.313 of this title (relating to Designated Alternative Limits), where:

(1) the aromatic hydrocarbon content does not exceed the designated alternative limit (DAL); and

(2) the DAL exceeds 10% by volume, the excess aromatic hydrocarbon content is fully offset in accordance with §114.313 of this title.

(c) The minimum cetane number for LED is 48.

(d) Subsection (a) of this section does not apply to a sale, offer for sale, or supply of diesel fuel to a producer where the producer further processes the diesel fuel at the producer's production facility prior to any subsequent sale, offer for sale, or supply of the diesel fuel.

(e) Diesel fuel that has been produced to comply with all specifications for a Certified Diesel Fuel Formulation as approved by an executive order by the California Air Resources Board on or before January 18, 2005, for compliance with California diesel fuel regulations that were in effect as of October 1, 1993, except for those approved for small refinery compliance, or diesel fuel that has been produced to meet all specifications for diesel fuel under regulations adopted by the California Air Resources Board, except for those approved for small refinery compliance, that were in effect as of January 18, 2005, may be used to satisfy the requirements of subsection (a) of this section.

(f) Alternative diesel fuel formulations that the producer has demonstrated to the satisfaction of the executive director, through emissions and performance testing methods prescribed in §114.315(c) and (d) of this title (relating to Approved Test Methods), as achieving comparable or better reductions in emissions of oxides of nitrogen and particulate matter may be used to satisfy the requirements of subsections (b) and (c) of this section. For alternative diesel fuel formulations that incorporate additive systems, the

**Texas Administrative Code**Next Rule>>

<b><u>TITLE 30</u></b>	<b>ENVIRONMENTAL QUALITY</b>
<b><u>PART 1</u></b>	<b>TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>
<b><u>CHAPTER 114</u></b>	<b>CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES</b>
<b><u>SUBCHAPTER H</u></b>	<b>LOW EMISSION FUELS</b>
<b><u>DIVISION 1</u></b>	<b>GASOLINE VOLATILITY</b>
<b>RULE §114.301</b>	<b>Control Requirements for Reid Vapor Pressure</b>

---

(a) In the counties listed in §114.309 of this title (relating to Affected Counties), no person shall sell, offer for sale, supply, offer for supply, dispense, transfer, allow the transfer, place, store, or hold in any stationary tank, reservoir, or other container any gasoline with a Reid vapor pressure greater than 7.8 pounds per square inch, on a per gallon basis, which may ultimately be used to power a gasoline engine in the affected counties according to the schedule in subsection (b) of this section.

(b) Beginning May 1, 2000, all adjustments in the operation of affected facilities and all transfers or alterations of gasoline not meeting the requirements of this section must be completed as necessary to conform with the provisions of subsection (a) of this section during the following periods of each calendar year:

(1) June 1 through October 1 of each year for gasoline dispensing facilities; and

(2) May 1 through October 1 of each year for all other affected facilities.

(c) No producer shall increase the use of methyl-tertiary-butyl-ether in gasoline on an average per gallon basis during the period of May 1 through October 1 of any calendar year over that used in the period May 1 through October 1, 1998 to conform with subsection (a) of this section.

---

**Source Note:** The provisions of this §114.301 adopted to be effective July 21, 1999, 24 TexReg 5487; amended to be effective April 27, 2000, 25 TexReg 3535



**TEXAS**  
ASSOCIATION OF  
MANUFACTURERS

December 6, 2007

The Honorable Rick Perry  
Governor, State of Texas  
Austin, Texas

Dear Governor Perry:

The Texas Association of Manufacturers would like to thank you for your leadership in advocating for preservation of the U.S. EPA's existing National Ambient Air Quality Standard (NAAQS) for ozone and hope you will continue to engage in the rulemaking process to assure a result that will help secure Texas manufacturing jobs while protecting public health.

As you are aware, the EPA's proposals to tighten the standard will confer little, if any, environmental benefits on the state while undermining the economy by imposing more disincentives to expand business operations. A stricter standard will also impose economic burdens that will exacerbate the current natural gas crisis while undermining high quality manufacturing jobs. Americans have lost 3 million jobs during 2000 -2004 due in part to our nation's self-inflicted policies that produce staggering structural costs - diverting precious resources away from workers and giving international competitors a leg up.

According to EPA's own studies, air quality in the United States continues to improve under the current rule, with emissions from the six criteria pollutants under the Clean Air Act (CAA) having dropped by more than 54% during the last generation. The EPA says the current standard will cut power plant emissions in half by 2015 and reduce car and truck emissions by more than 70 percent by 2030. Houston alone has achieved an 80 percent reduction in Volatile Organic Compounds in the last 15 years.

These improvements come at a cost. The current standard is estimated to cost a staggering \$100 billion. Since the technology to meet the new, more stringent standard doesn't exist, additional billions could go toward research and development, if the technology can be developed at all. Tighter ozone rules will result in higher energy costs and even more job losses, which the state cannot afford.

As you know, manufacturers are committed to clean air and urge the EPA to stay the course with common sense solutions. If the EPA insists on creating a moving target for success, we have no hope for success. We hope you will continue your leadership role in this vital issue and urge the EPA to stay the course.

Sincerely,

Texas Association of Manufacturers  
Chairman

cc: Stephen L. Johnson, Administrator, United States Environmental Protection Agency  
James Connaughton, Chairman, White House Council on Environmental Quality  
Senator John Cornyn

Senator Kay Bailey Hutchinson  
Representative Louis B. Gohmert Jr.  
Representative Ted Poe  
Representative Sam Johnson  
Representative Ralph Hall  
Representative Jeb Hensarling  
Representative Joe Barton  
Representative John Culberson  
Representative Kevin Brady  
Representative Al Green  
Representative Michael McCaul  
Representative Mike Conaway  
Representative Kay Granger  
Representative William Thornberry  
Representative Ron Paul  
Representative Ruben Hinojosa  
Representative Silvestre Reyes  
Representative Chet Edwards  
Representative Sheila Jackson Lee  
Representative Randy Neugebauer  
Representative Charlie Gonzalez  
Representative Lamar Smith  
Representative Nick Lampson  
Representative Ciro Rodriguez  
Representative Kenny Ewell Marchant  
Representative Lloyd Doggett  
Representative Michael Burgess  
Representative Solomon Ortiz  
Representative Henry Cuellar  
Representative Gene Green  
Representative Eddie Bernice Johnson  
Representative John Carter  
Representative Pete Sessions



**TEXAS**  
ASSOCIATION OF  
MANUFACTURERS

TO: Administrator Stephen Johnson, U.S. EPA

DATE: 12/7/2007

SUBJECT: EPA NAAQS regulations affecting Texas

FROM: Virginia Gaiennie

If you have any questions or would like additional information about this issue, please contact Virginia Gaiennie with the Texas Association of Manufacturers at 512.826.0826 or [Virginia@manufacturetexas.org](mailto:Virginia@manufacturetexas.org).

AL-08-000-2411

12/11 Mtg  
RR - hosted by  
DPC/NEC/EE  
March 08



Alabama



Alaska



Indiana



Louisiana



Mississippi



Missouri



Nebraska



Nevada



North Dakota



South Carolina



Texas

December 11, 2007

The Honorable Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Johnson:

Earlier this year, governors from both parties and every region of the country asked you to consider every option and maintain an open dialogue as you consider the ground-level ozone NAAQS. We have concluded that the uncertain health and environmental benefits do not warrant a tightened standard, especially when state and local governments are making significant progress under the current standards to improve air quality.

As your decision draws nearer, we would ask that you provide us an opportunity to continue this communication and not reach a final decision until you have heard from all interested parties, including governors of the several states that will be affected. The fact is that the scientific research on this issue does not provide compelling evidence of any health benefits. We agree with your Deputy Assistant Administrator for the Office of Air and Radiation Robert Meyers who stated, "There is a lot of uncertainty" and that some "esteemed scientists are saying that the data is not sufficient to change the standard."

In support of Mr. Meyers' point, one of the foundational scientific studies meant to substantiate a tightened standard – the 2006 Adams study – was based on only 30 volunteers. The author of the study even believes that your staff scientists have misinterpreted his original findings. Similarly, it appears that EPA scientists dismiss the impact of naturally occurring ozone, or ozone that is imported from our neighbors in Canada and Mexico. As a result, it should be no surprise when a respected expert like Dr. Roger McClellan says that tightening the standard "is a policy judgment based on a flawed and inaccurate presentation of the science..."

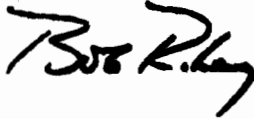
Finally, we want you to know that we are proud of our progress in improving air quality. EPA's data shows that ozone concentrations nationwide have dropped more than 20% since the early

\* Letter from southern gov's (April 9<sup>th</sup>) from Patrick Sullivan

1980s. Furthermore your re-designation of several counties this year as having reached attainment of the current standard shows that we are making progress under current rules.

Thank you for the opportunity to work with you on this vital issue and to continue the progress that the EPA's policies, in concert with state and local governments, are generating.

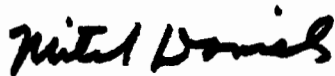
Sincerely,



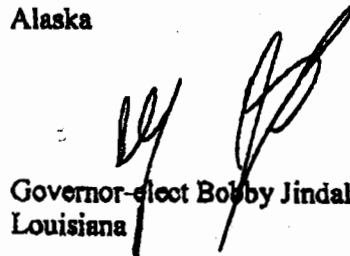
Governor Bob Riley  
Alabama



Governor Sarah Palin  
Alaska



Governor Mitch Daniels  
Indiana



Governor-elect Bobby Jindal  
Louisiana



Governor Haley Barbour  
Mississippi

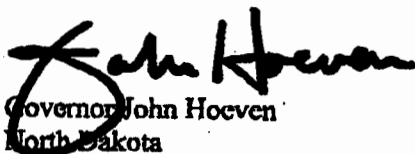


Governor Matt Blunt  
Missouri



Governor Dave Heineman  
Nebraska

Governor Jim Gibbons  
Nevada



Governor John Hoeven  
North Dakota



Governor Mark Sanford  
South Carolina



Governor Rick Perry  
Texas



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 29 2008

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
Post Office Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter of December 11, 2007, co-signed by ten of your colleagues, regarding the U.S. Environmental Protection Agency's (EPA) June 2007 proposal to revise the National Ambient Air Quality Standards (NAAQS) for ground-level ozone.

As you know, we are moving toward a final decision by March 12, 2008. In considering revisions to the NAAQS, I have given careful attention to the full body of scientific evidence available to EPA in this review. In addition, I have made a strong effort to ensure that all interested parties, including governors, are afforded ample opportunity to identify any relevant science and to communicate their views to the Agency. I have taken under consideration your view that the research on this issue does not provide compelling evidence of any health benefits and your recommendation that the uncertain evidence does not warrant a tightened standard. I have also forwarded your comments to the docket for this rulemaking (EPA-HQ-OAR-2005-0172).

I appreciate the importance of this decision to states and applaud the progress that many states have already made in reducing ozone pollution. It is my hope that we will see this progress continue over the next several years.

Again, thank you for your letter. If you have further questions or concerns, please contact me, or your representative may call Mayor Randy Kelly in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3126.

Sincerely,

A handwritten signature in black ink, appearing to read "S. L. Johnson", is written over the word "Sincerely,".

Stephen L. Johnson



AL-08-000-5594

## OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

April 25, 2008

The Honorable Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460-2403

Dear Administrator Johnson:

Please accept this request for a waiver of a portion of the Renewable Fuel Standard (RFS) consistent with Section 211(o) of the Federal Clean Air Act as amended by the Energy Independence and Security Act of 2007. This request is based upon data demonstrating that implementation of the mandate is unnecessarily having a negative impact on Texas' otherwise strong economy while driving up global food prices.

Texas is the nation's largest beef-producing state and ranks in the top 10 states in poultry/egg and dairy production. The Texas economy has always welcomed and fostered entrepreneurship that utilizes cutting edge technology. Texas is also a leading producer of our nation's domestic fuel supply. This is why I have worked to invest significant state resources into researching, developing and incentivizing renewable fuel production in Texas. Overall, the Texas economy is the strongest in the nation, primarily because our policies are driven by market forces.

In short, Texas plays a significant role in feeding and fueling the nation.

While the RFS was a well intentioned policy, it has had the unintentional consequence of harming segments of our agriculture industry and contributing to higher food prices. For example, corn prices are up 138 percent globally over the past three years and global food prices have increased 83 percent over the same time period, in part because of the artificial economic forces created by the RFS.

Economic studies on this topic span the spectrum of opinion depending on several different assumptions. However, it does not take an economist or a statistician to perform a simple

The Honorable Stephen Johnson  
April 25, 2008  
Page 2

calculation of the economic impact of higher corn prices on Texas livestock producers and Texans in general.

In 2007, Texas farmers produced 296 million bushels of corn. Through our many animal feeding operations, 900 million bushels of corn are fed in Texas each year. Applying a simple calculation, it is easy to see that a one-cent change in the per-bushel price of corn will negatively affect the Texas livestock industry by \$6.04 million.

This is amplified significantly when applied to the difference in seasonal average corn prices since the implementation of the first RFS mandate. In 2004, before the RFS was implemented, the price of corn was \$2.06/bushel. In a conservative estimate, the U.S. Department of Agriculture (USDA) projects the price for the 2007 crop (post-RFS) will have averaged \$4.00/bushel. The difference of \$1.94/bushel equates to a negative impact on the Texas economy of \$1.17 billion since the RFS has come about. And now, with implementation of the new RFS, some estimates peg corn prices at \$8.00/bushel for the 2008 crop, which would result in a negative impact to Texas of \$3.59 billion.

To look at it another way, 25 percent of the United States corn crop was diverted to produce ethanol in 2007 according to the USDA, which projects that 30 to 35 percent will be diverted in 2008. With ever increasing mandates of corn crop diversions to ethanol production through 2015, the impact on food prices globally, and to Texas specifically, will only worsen.

The impact on the cattle industry is particularly harmful to family ranches. According to the USDA, two-thirds of the 149,000 cattle producers in Texas have fewer than 50 head of cattle.

While proponents of the RFS may argue that any waiver would result in gasoline shortages or higher gasoline prices, at least one economic study prepared by Texas A&M University shows that market forces alone will result in ethanol production of more than a billion gallons annually above the federal requirement after 2008. It is vitally important that the federal government address skyrocketing fuel prices, but the solution should be through increased production and more non-grain alternative fuel sources, and not through policies that artificially drive up food prices and negatively impact Texas' otherwise strong economy.

My request is for a waiver of 50 percent of the mandate for the production of ethanol derived from grain. While many other factors affect the price of corn, I need only to look at skyrocketing grocery prices to know that granting a waiver of RFS levels is the right thing to do. As I noted to fellow governors at a recent Republican Governors Association meeting, "If you think it's bad for foreign countries to control our fuel, imagine what it would be like if they control our food supplies."

The Honorable Stephen Johnson  
April 25, 2008  
Page 3

Granting this waiver will provide Texans much needed relief at the grocery store, and it will ensure that the livestock industry in Texas is able to continue providing a significant source of food products for our nation.

Thank you for your consideration. Please feel free to contact Mike Morrissey on my staff if you have any questions regarding this request. Mike can be reached at 512/463-1778 or by e-mail at [mmorrissey@governor.state.tx.us](mailto:mmorrissey@governor.state.tx.us).

Sincerely,



Rick Perry  
Governor

RP:kwp

cc: The Honorable Ed Schafer, U.S. Secretary of Agriculture  
The Honorable Sam Bodman, U.S. Secretary of Energy  
The Honorable Todd Staples, Commissioner, Texas Department of Agriculture  
The Honorable Susan Combs, Comptroller of Public Accounts  
Texas Congressional Delegation

Office of the Governor  
Capitol Station  
Austin, Texas 78711-2428  
Phone: (512) 463-2000  
Fax: 512/463-0039

To: The Honorable Stephen L. Johnson Fax: 202-501-1540

Administrator, U.S. Environmental Protection Agency

From: Rick Perry

Date: April 25, 2008

Pages Excluding Cover Sheet 03

Comments:

**CONFIDENTIALITY NOTICE:** The information contained in this facsimile transmission is confidential. It may also be subject to the attorney-client privilege or others as work product or as proprietary information. This information is intended for the exclusive use of the addressee named. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee named above), copying, or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify us by telephone to arrange the return of the document.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CONTACT US IMMEDIATELY AT 512/463-0039.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 12 2008

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
Post Office Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your April 25, 2008, letter to the U.S. Environmental Protection Agency (EPA) requesting a waiver of a portion of the renewable fuel standard (RFS) consistent with section 211(o) of the Clean Air Act.

At this time, EPA's Office of Air and Radiation (OAR) is reviewing your request for a waiver. Karl Simon of OAR's Office of Transportation and Air Quality has been in communication with Mike Morissey of your staff. OAR will continue to work with your staff throughout this review.

In addition, a copy of the *Federal Register* notice announcing receipt of your waiver request and soliciting public comment is enclosed. This notice was published on May 22, 2008, and the comment period will remain open until June 23, 2008. A copy of your letter has been placed in the waiver docket.

Again, thank you for your letter. If you have further questions, please call me or your representative may contact Mayor Randy Kelly in EPA's Office of Congressional and Intergovernmental Relations at 202-564-3126.

Sincerely,

A handwritten signature in black ink, appearing to read "S. L. Johnson", is written over the typed name.

Stephen L. Johnson

Enclosure

On April 11, 2008, notice was published that the Commonwealth of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the state waters of Scituate, Marshfield, Cohasset, and the tidal portions of the North and South Rivers. No comments were received on this petition.

The petition was filed pursuant to Section 312(f)(3) of Public Law 92-500, as amended by Public Laws 95-217 and 100-4, for the purpose of declaring these waters a "No Discharge Area" (NDA).

Section 312(f)(3) states: After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

The information submitted to EPA by the Commonwealth of Massachusetts

certifies that there are ten pumpout facilities located within the proposed area. A list of the facilities, with phone numbers, locations, and hours of operation is appended at the end of this determination.

Based on the examination of the petition, its supporting documentation, and information from site visits conducted by EPA New England staff, EPA has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the area covered under this determination.

This determination is made pursuant to Section 312(f)(3) of Public Law 92-500, as amended by Public Laws 95-217 and 100-4.

#### PUMPOUT FACILITIES WITHIN PROPOSED NO DISCHARGE AREA

Name	Location	Contact Info	Hours	Mean low water depth
Cohasset Harbormaster .....	Cohasset Harbor .....	(781) 383-0863 .....	15 May-1 Nov .....	N/A.
		VHF 10, 16 .....	9:00 a.m.-9:00 p.m. ....	Boat Service.
Cole Parkway Marina .....	Scituate Harbor .....	(781) 545-2130 .....	15 May-15 October .....	6 ft.
		VHF 9 .....	8:00 a.m.-4:00 p.m. ....	
Harbor Mooring Service .....	North and South Rivers .....	(781) 544-3130 .....	15 April-1 November .....	N/A.
		Cell (617) 281-4365 .....	Service provided on-call .....	Boat Service.
		VHF 9 .....		
James Landing Marina .....	Herring River, Scituate .....	(781) 545-3000 .....	1 May-15 Oct .....	6 ft.
			8 a.m.-4:30 p.m. ....	
Waterline Mooring .....	Scituate Harbor .....	(781) 545-4154 .....	15 May-15 Oct .....	N/A.
		VHF 9, 16 .....	8 a.m.-5 p.m. ....	Boat Service.
			Or by appointment .....	
Green Harbor Town Pier .....	Green Harbor, Marshfield' d ...	(781) 834-5541 .....	1 April-15 Nov 24/7 Self-Serve 15 May-30 Sept. Attendant Service 8 a.m.-11:30 p.m..	4 ft.
		VHF 9, 16 .....		
Bridgeway Marina .....	South River, Marshfield .....	(781) 837-9343 .....	15 June-15 October .....	6 ft.
		VHF 9, 11 .....	9-5 p.m. ....	
Erickson's Marina .....	South River, Marshfield .....	(781) 837-2687 .....	15 March-15 November .....	4 ft.
			8 a.m.-5 p.m. ....	
White's Ferry Marina .....	South River, Marshfield .....	(781) 837-9343 .....	15 June-15 October .....	4 ft.
		VHF 9, 11 .....	9-5 p.m. ....	
Mary's Boat Livery .....	North River, Marshfield .....	(781) 837-2322 .....	15 May-1 Oct .....	4 ft.
		VHF 9, 16 .....	8 a.m.-4 p.m. ....	
** Marshfield Yacht Club .....	South River, Marshfield .....	TBA .....	TBA .....	TBA.
** South River Boat Ramp ..	South River, Marshfield .....	TBA .....	TBA .....	TBA.

\*\* Pending facilities.

Dated: May 14, 2008.

Robert W. Varney,

Regional Administrator, Region 1.

[FR Doc. E8-11485 Filed 5-21-08; 8:45 a.m.]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2008-0380; FRL-8569-5]

#### Notice of Receipt of a Request From the State of Texas for a Waiver of a Portion of the Renewable Fuel Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 211(o)(7) of the Clean Air Act (the Act), 42 U.S.C. 7545(o)(7), EPA is issuing a

notice of receipt of a request for a waiver of 50 percent of the renewable fuel standard (RFS) "mandate for the production of ethanol derived from grain." The request has been made by the Governor of the State of Texas. Section 211(o)(7)(A) of the Act allows the Administrator of the EPA to grant the waiver if implementation of the national RFS requirements would severely harm the economy or environment of a state, a region, or the United States, or if EPA determines that there is inadequate domestic supply of renewable fuel. EPA is required by the Act to provide public notice and

opportunity for comment on this request.

**DATES:** *Comments.* Written comments must be received on or before June 23, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0380, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).

- *Fax:* (202) 566-1741.

- *Mail:* Air and Radiation Docket, Docket ID No. EPA-HQ-OAR-2008-0380, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0380. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**FOR FURTHER INFORMATION CONTACT:**

James W. Caldwell, Office of Transportation and Air Quality, Mailcode: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343-9303; fax number: (202) 343-2802; e-mail address: [caldwell.jim@epa.gov](mailto:caldwell.jim@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**(A) How Can I Access the Docket and/or Submit Comments?**

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OAR-2008-0380, which is available for online viewing at <http://www.regulations.gov>, or in person viewing at the EPA/DC Docket Center Public Reading Room, 1301 Constitution Avenue, NW., Room 3334, Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202-566-1744, and the telephone number for the Air and Radiation Docket is 202-566-1742.

Use <http://www.regulations.gov> to obtain a copy of the waiver request, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

**(B) What Information Is EPA Particularly Interested In?**

On April 25, 2008, the Governor of Texas submitted a request to the Administrator under section 211(o) of the Act for a waiver of 50 percent of the RFS "mandate for the production of ethanol derived from grain." The request includes statements regarding the economic impact of higher corn prices in Texas. This request has been placed in the public docket.

Pursuant to section 211(o)(7) of the Act, EPA specifically solicits comments and information to enable the Administrator to determine if the statutory basis for a waiver of the national RFS requirements has been met and, if so, the extent to which EPA should exercise its discretion to grant a waiver. Section 211(o)(7) of the Act allows the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, to waive the requirements of the

national RFS at 40 CFR 80.1105, in whole or in part, upon petition by one or more States. A waiver may be granted if the Administrator determines, after public notice and an opportunity for public comment, that implementation of the RFS requirements would severely harm the economy or environment of a state, a region, or the United States; or that there is an inadequate domestic supply of renewable fuel. The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver within 90 days of receiving it. If a waiver is granted, it can last no longer than one year unless it is renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy. The RFS for 2008 was published in the *Federal Register* on February 14, 2008 (73 FR 8685) and was intended to lead to the use of nine (9) billion gallons of renewable fuel in 2008.

EPA requests comment on any matter that might be relevant to EPA's action on the petition, specifically including (but not limited to) information that will enable EPA to:

- (a) Evaluate whether compliance with the RFS is causing severe harm to the economy of the State of Texas;

- (b) evaluate whether the relief requested will remedy the harm;

- (c) determine to what extent, if any, a waiver approval would change demand for ethanol and affect corn or feed prices; and

- (d) determine the date on which a waiver should commence and end if it were granted.

In addition to inviting comments on the above issues, EPA recognizes that it has discretion in deciding whether to grant a waiver, as the statute provides that "[t]he Administrator \* \* \* may waive the requirements of [section 211(o)(2)] in whole or in part" (emphasis supplied) if EPA determines that the severe harm criteria has been met. EPA also recognizes that a waiver would involve reducing the national volume requirements under section 211(o)(2), which would have effects in areas of the country other than Texas, including areas that may be positively impacted by the RFS requirements. Given this, EPA invites comment on all issues relevant to deciding whether and how to exercise its discretion under this provision, including but not limited to the impact of a waiver on other regions or parts of the economy, on the environment, on the goals of the renewable fuel program, on appropriate mechanisms to implement a waiver if a waiver were determined to be

appropriate, and any other matters considered relevant to EPA's exercise of discretion under this provision.

Commenters should include data or specific examples in support of their comments in order to aid the Administrator in determining whether to grant or deny the waiver. Data that shows a quantitative link between the use of corn for ethanol and corn prices, and on the impact of the RFS mandate on the amount of ethanol produced, would be especially helpful.

Dated: May 16, 2008.

Robert J. Meyers,  
Principal Deputy Assistant Administrator,  
Office of Air and Radiation.  
[FR Doc. E8-11486 Filed 5-21-08; 8:45 am]  
BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

May 19, 2008.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 23, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of

time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov) or via fax at (202) 395-5187 and to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC or via Internet at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) or [PRA@fcc.gov](mailto:PRA@fcc.gov). To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>; (2) look for the section of the Web page called "Currently Under Review;" (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading; (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box; (5) click the "Submit" button to the right of the "Select Agency" box; and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418-2918.

#### SUPPLEMENTARY INFORMATION:

**OMB Control Number:** 3060-0009.

**Title:** Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.

**Form Number:** FCC Form 316.

**Type of Review:** Revision of a currently approved collection.

**Respondents:** Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

**Number of Respondents and Responses:** 750 respondents, 750 responses.

**Frequency of Response:** On occasion reporting requirement.

**Obligation To Respond:** Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 154(i) and 310(d) of the Communications Act of 1934, as amended.

**Estimated Time per Response:** 1-4 hours.

**Total Annual Burden:** 855 hours.

**Total Annual Costs:** \$425,150.

**Confidentiality:** No need for confidentiality required.

**Privacy Impact Assessment:** No impact(s).

**Needs and Uses:** On March 17, 2005, the Commission released a Second Order on Reconsideration and Further Notice of Proposed Rulemaking, Creation of a Low Power Radio Service, MB Docket No. 99-25 (FCC 05-75). The Further Notice of Proposed Rulemaking ("FNPRM") proposed to permit the assignment or transfer of control of Low Power FM (LPFM) authorizations where there is a change in the governing board of the permittee or licensee or in other situations corresponding to the circumstances described above. This proposed rule was subsequently adopted in a Third Report and Order and Second Further Notice of Proposed Rulemaking, MB Docket No. 99-25 (FCC 07-204) (*Third Report and Order*), released on December 11, 2007.

FCC Form 316 has been revised to encompass the assignment and transfer of control of LPFM authorizations, as proposed in the FNPRM and subsequently adopted in the Third Report and Order, and to reflect the ownership and eligibility restrictions applicable to LPFM permittees and licensees.

Filing of the FCC Form 316 is required when applying for authority for assignment of a broadcast station construction permit or license, or for consent to transfer control of a corporation holding a broadcast station construction permit or license where there is little change in the relative interest or disposition of its interests; where transfer of interest is not a controlling one; there is no substantial change in the beneficial ownership of the corporation; where the assignment is less than a controlling interest in a partnership; where there is an appointment of an entity qualified to succeed to the interest of a deceased or legally incapacitated individual permittee, licensee or controlling stockholder; and, in the case of LPFM stations, where there is a voluntary transfer of a controlling interest in the licensee or permittee entity. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated.

**OMB Control Number:** 3060-0031.

**Title:** Application for Consent to Assignment of Broadcast Station Construction Permit or License; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.



AL-08-000-9007

OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

June 23, 2008

Honorable Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460-2403

**Re: Notice of Receipt of a Request from the State of Texas for a 50% Waiver  
of the Renewable Fuel Standard, 73 *Fed. Reg.* 29753 (May 22, 2008)  
Air and Radiation Docket ID No. EPA-HQ-OAR-2008-0380**

Dear Mr. Johnson:

On behalf of the State of Texas, I want to thank the EPA for considering my April request for a 50-percent waiver of the Renewable Fuel Standard (RFS) for grain-based ethanol. In particular, I appreciate the EPA's May 22 request for comment. In response, I am pleased to submit the attached comment document, together with various exhibits, including a recent briefing paper prepared by the Agriculture and Food Policy Center at Texas A&M University and an economic analysis on the implications of the waiver on the petroleum markets and broader economy.

I strongly urge you to grant the requested waiver of the RFS mandate effective no later than September 1, 2008. Since I requested the waiver in late April, the economic situation has only worsened. The prices of corn, crude oil, gasoline, and diesel oil have skyrocketed to all-time highs. All signs indicate that these markets will continue to worsen, particularly corn prices, in part because of the devastating rains and flooding in the Midwest. Such high prices are severely harming the otherwise strong economy of Texas, as well as the economies of the region and the Nation. Their crippling effect on the livestock industry is well documented. Ironically, escalating corn prices are not only eroding profit margins for ethanol producers, but will likely obliterate them in time. Gasoline blenders will have to choose between bankruptcy, noncompliance, or passing the costs associated with higher priced ethanol on to consumers. I sincerely doubt that Congress could have anticipated this dilemma when it doubled the mandate in December 2007.

The Honorable Stephen L. Johnson

June 23, 2008

Page 2

Because the RFS is a material contributor to record-high food and fuel prices, I am certain that a waiver would help to reduce prices significantly for three reasons. First, as predictions about the 2008 corn harvest darken, the RFS works with other factors to drive corn prices to unprecedented levels, threatening not only the livestock industry, but also affordable food supplies and the ethanol industry itself. Second, as explained in the economic analysis, the RFS contributes to the escalating costs of imported crude, diesel and gasoline, resulting in higher diesel and gasoline prices at the pump, among others. Finally, the RFS gives the investment community, notably so-called index commodity traders, a firm floor from which to bid or drive up prices.

I am sure you will agree that those of us in positions of government leadership must use the tools at our disposal to put things right in times of crisis. The RFS waiver is such a tool, and I hope you will wield it assertively to bring relief.

I hope that we will have an opportunity to discuss this matter which is of vital importance to Texas and our Nation. Meanwhile, thank you very much for your time and attention.

Sincerely,

  
Rick Perry  
Governor

RP:ap

Attachments

cc: The Honorable Ed Schafer, U.S. Secretary of Agriculture  
The Honorable Sam Bodman, U.S. Secretary of Energy  
The Honorable Todd Staples, Commissioner, Texas Department of Agriculture  
The Honorable Susan Combs, Comptroller of Public Accounts  
Texas Congressional Delegation



AL-09-001-1296

OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

July 20, 2009

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

**Re: Notice of Receipt of Clean Air Act Waiver Application to Increase the  
Allowable Ethanol Content of Gasoline to 15 percent**

Dear Administrator Jackson:

On behalf of the State of Texas, I want to thank the EPA for considering comments in response to Growth Energy's waiver application to increase the allowable ethanol level in gasoline from 10 percent to 15 percent, published in the Federal Register on April 21, 2009 (Volume 74, Number 75, Pages 18228-18230). I respectfully urge you to deny the waiver request, at least until proper analysis has been conducted on the impact of raising the allowable ethanol blend rate from 10 percent to 15 percent, including the effects on commodity prices, food prices, corn supply, large and small engines, and air quality.

As you know, Texas requested a 50 percent waiver of the Renewable Fuel Standard (RFS) in April 2008. This request was in response to skyrocketing corn prices and the devastating impact it had on the Texas livestock industry and consumer costs. Approving a request to increase the blend rate to 15 percent ethanol would continue the negative impact on the livestock industry and raise consumer costs.

One of the most important factors in support of my request that you deny Growth Energy's waiver application is based on the potential environmental impact of a 15 percent ethanol blend rate. Even with Texas' large agricultural and industrial base, we have made great strides in improving air quality, specifically regarding ozone. Since 2000, ozone levels have decreased by

The Honorable Lisa P. Jackson

July 20, 2009

Page 2

22 percent. Effective November 2008, the EPA determined the Dallas-Fort Worth area attained the one-hour ozone standard based on 2004-2006 monitoring data. The area was also the first in the country to have an attainment demonstration State Implementation Plan revision approved by EPA for the 1997 eight-hour ozone standard. I am concerned that raising the blend rate could negatively impact our air quality.

I believe it is important to deny the waiver request at least until the Texas Commission on Environmental Quality has completed its analysis on the anticipated increase in NO<sub>x</sub> attributable to raising the blend rate of ethanol from 10 percent to 15 percent. As you know, your agency has determined that NO<sub>x</sub>, a precursor to ozone, increased by 7 percent when using E-10 relative to E-0. There has been no analysis by EPA of the impact on air quality by allowing an E-15 blend.

Likewise, the U.S. Department of Agriculture has not performed a similar analysis on the effects of allowing E-15 on commodity prices, specifically corn. Last year the price of corn spiked to more than \$8/bushel, due in part to the Energy Independence and Security Act of 2007 (EISA) requiring a substantial increase in the RFS.

Furthermore, there has been no thorough analysis on the impact of E-15 on older automobile engines, marine engines or small engines, or on the corrosive effects of placing E-15 in our existing refining and distribution infrastructure.

The Texas Department of Agriculture (TDA), which is designated as the lead state agency for the oversight of weights and measures and fuel quality, recently estimated that its monitoring and regulating costs will increase by \$1,148,443 the first year and \$1,101,443 for each subsequent year by merely allowing an E-15 blend. While these are relatively small amounts when compared to the federal budget, we have a responsibility to the taxpayers in Texas to account for the use of their money.

Finally, while Growth Energy's waiver request is driven by a desire to offer struggling ethanol producers an alternative path to economic stability, I do not believe Congress contemplated adjusting the blend rate to save ethanol producers. EISA clearly provides only two bases for waiving the RFS. The first allows the administrator to waive volumetric mandates of the RFS, in whole or in part, if the administrator determines that the mandates will severely harm the economy of a state, region or the nation. The second approach allows for a waiver if the

The Honorable Lisa P. Jackson

July 20, 2009

Page 3

administrator determines there is an inadequate domestic supply of renewable fuel (in this case, corn). I am very concerned that by allowing an E-15 blend, EPA can then require an E-15 blend to meet the RFS. This path to fulfilling the RFS is wholly outside of the realm of EISA and has been neither debated nor contemplated by Congress.

Absent addressing the concerns outlined in this letter, I believe it is premature to take any action with regard to increasing the blend rate to 15 percent ethanol. I respectfully request that you deny Growth Energy's request at this time and direct the relevant agencies to perform the needed analyses for future consideration.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, flowing style with a large, prominent "R" and "P".

Rick Perry  
Governor

RP:tbk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 26 2009

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
State Capitol  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter of July 20, 2009, concerning a recent Clean Air Act (Act) waiver request to increase the allowable ethanol content of gasoline to 15 percent by volume. You asked that the request be denied, at least until a proper analysis has been conducted, including the impacts on commodity and food prices, corn supply, engines, and air quality.

The U.S. Environmental Protection Agency (EPA) is carefully considering the waiver request we received from Growth Energy on March 6, 2009. A notice of its receipt was published in the Federal Register on April 21, 2009. We appreciate your comments and will place your letter in the public docket (HQ-OAR-2009-0211).

The issues raised by the waiver request are very important and complex. We have received a significant number of comments from a wide range of stakeholders in response to our request for public comment. In addition, we continue to work closely with the U.S. Department of Energy (DOE) and the U.S. Department of Agriculture (DOA) on this issue. We will take these comments and any other relevant information into consideration, and, using the best available technical data, make a determination on the waiver request.

Again, thank you for your letter. If you have further questions please contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrative for Intergovernmental Relations, at (202) 564-7178.

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson



AL-09-001-3075

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP - 2 2009

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428

Dear Governor Perry:

We have reached the six month mark for the implementation of President Obama's *American Recovery and Reinvestment Act* (ARRA). This has been an exciting and challenging time for all of us and has pushed us to explore quicker and more efficient ways of doing our work. We have also looked to you, our state partners, to better understand your needs in terms of ARRA implementation. In response, we have developed guidance and training materials, and conducted numerous web based ARRA sessions for those receiving funds.

The first phase of our ARRA work is almost complete – EPA has obligated over 90% of our ARRA dollars. The second phase for EPA is to ensure that our state and other partners can take those obligated funds and turn them into funded projects.

The heart of the Recovery Act is to jumpstart our economy by creating or saving jobs, sustaining our communities, enhancing environmental quality, and building or rebuilding the critical infrastructure of this great nation. I do not see a bright line that separates where EPA's work ends and where the work in Texas begins. We are in this together, and our success will be a shared state-federal investment in American growth.

Enclosed is a chart as of August 31, 2009 that specifically identifies the EPA ARRA program funds obligated to Texas and the current spending or outlays against those awards. We know these funds are vital to your state's economy and to improving basic infrastructure for your residents.

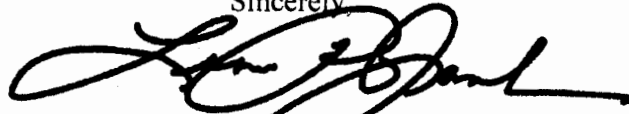
As you know, ARRA requires Clean Water and Safe Drinking Water State Revolving Funds be under contract or construction within 12 months of enactment. This means that if a State has not fulfilled this requirement by February 17, 2010, EPA must reallocate these appropriated funds, and the State loses that funding. EPA is committed to assisting States in meeting this and other deadlines. EPA has also provided funding for the Superfund, Leaking Underground Storage Tanks, Brownfields and Diesel Emissions

Reduction (DERA) programs. These funds, like those provided to the water programs, have deadlines which must be met for outlays as well.

EPA would like to help facilitate the expenditure of ARRA funds. There are new reporting and tracking requirements associated with ARRA, and we are happy to provide assistance in understanding and meeting those requirements. We also recognize that a number of provisions, such as the Davis-Bacon Wage Act requirements and the Buy American requirements, could potentially slow expenditure of funds. We stand ready to help in any way we can.

Since the inception of ARRA, EPA has established a senior level Steering Committee that has worked to identify and address any issue or obstacle that could have been an impediment to our implementation of ARRA. This Committee includes senior Headquarters and Regional officials, the Inspector General and representatives from the Office of Management and Budget. I have asked that Committee to also serve as an advisory group on state issues related to ARRA. I encourage you to contact me or have your staff contact Mr. Craig Hooks, Assistant Administrator for Administration and Resources Management and the Agency Senior Responsible Official for ARRA activities, if there are any issues we can help resolve. Mr. Hooks can be reached at (202)564-4600 or by email at [hooks.craig@epa.gov](mailto:hooks.craig@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa P. Jackson', with a large, stylized flourish at the end.

Lisa P. Jackson

Enclosure

**State of Texas**  
**Environmental Protection Agency**  
**American Recovery and Reinvestment Act (ARRA) Resource Use**  
*As of August 31, 2009*

Program	Budget	Obligated	Outlayed	% Obligated	% Outlayed
Brownfields	\$0.00	\$0.00	\$0.00	0.0%	0.0%
Clean Water SRF	\$179,121,900.00	\$179,121,900.00	\$0.00	100.0%	0.0%
Clean Deisel Funding Assistance Program	\$21,710,285.00	\$21,710,285.00	\$0.00	100.0%	0.0%
Clean Deisel Grant Program	\$1,730,000.00	\$1,730,000.00	\$0.00	100.0%	0.0%
Drinking Water SRF	\$160,656,000.00	\$160,656,000.00	\$0.00	100.0%	0.0%
Water Quality Planning (604b)	\$1,809,700.00	\$1,809,700.00	\$0.00	100.0%	0.0%
LUST Trust Fund Program	\$10,779,000.00	\$10,779,000.00	\$0.00	100.0%	0.0%
Superfund	\$5,986,410.00	\$5,986,410.00	\$0.00	100.0%	0.0%
<b>Texas Total:</b>	<b>\$381,793,295.00</b>	<b>\$381,793,295.00</b>	<b>\$0.00</b>	<b>100.0%</b>	<b>0.0%</b>

**Obligation:** A binding agreement that will result in outlays, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally.

**Outlays:** Amount of obligations paid. Includes payments in the form of cash (currency, checks, or electronic fund transfers) and in the form of debt instruments (bonds, debentures, notes, or monetary credits) when they are used to pay obligations.



AL 09-001-7974

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 24 2009

THE ADMINISTRATOR

The Honorable Rick Perry  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Nine months ago, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). With your help, EPA was able to obligate all of the Clean Water and Drinking Water State Revolving Fund (SRF) program resources, the first step in turning these funds into jobs. The next phase of implementation and moving projects to construction is now underway. This is the phase that brings needed jobs into the economy, and States with local water and waste water utilities have this primary responsibility.

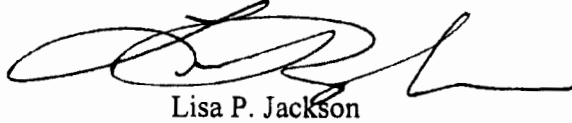
The State of Texas was awarded approximately \$340 million in ARRA funds for the SRF programs. As of November 23, with three months remaining until the February 17, 2010 deadline to have these funds under contract, Texas has yet to report any projects under contract. The creation of needed jobs will depend on successfully getting projects under construction and with three months to go I want to make sure you know your status. In the coming month I will personally make phone calls to some States to inquire into the ongoing progress of the SRF programs.

As I stated in my September 2, 2009 letter to you, ARRA requires Clean Water and Safe Drinking Water State Revolving Fund dollars be under contract or construction within 12 months of enactment. This means that if a State has not fulfilled this requirement by February 17, 2010, EPA is required by law to reallocate these appropriated funds, and the State loses that funding. We know these funds are vital to your state's economy and to improving basic infrastructure for your residents, and we encourage every effort to ensure that no funds are reallocated, and outlays proceed at an accelerated pace.

Just as important as contracts and construction are to the success of ARRA, outlays represent the final step of delivering ARRA funds to local economies. While there is no specific timeline for all outlays to be completed, the clear expectation by both Congress and the public is that outlays must occur in an accelerated fashion in order to create jobs and maintain the current economic recovery.

I encourage you to contact me or have your Recovery official contact Mr. Craig Hooks, Assistant Administrator for Administration and Resources Management and the Agency Senior Responsible Official for ARRA activities, if there are any issues we can help resolve. Mr. Hooks can be reached at (202)564-4600 or by email at [hooks.craig@epa.gov](mailto:hooks.craig@epa.gov).

Sincerely,



Lisa P. Jackson

Governor,

I'll ask my staff  
to set up a call  
for us in case there  
is anything EPA can do  
to assist you or your staff  
in getting this money  
under contract. Thank.



AL-09-001-9208

OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

December 9, 2009

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460-2403

Dear Administrator Jackson:

Recent revelations that climate change scientists have altered, manipulated and destroyed data validate concerns I voiced to Administrator Johnson last year.<sup>1</sup> The fact that many of these scientists played leading roles in the preparation of the United Nations' Intergovernmental Panel on Climate Change (UNIPCC) reports should give the EPA significant pause in its march down the path of regulating the activities of virtually every business and farm in the country.

Therefore, I request that the EPA immediately withdraw the *Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act* (Endangerment Finding), the proposed *Light-Duty Vehicle Greenhouse Gas Emissions Standards and Corporate Average Fuel Economy Standards* rule, and the proposed *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring* rule (Tailoring Rule) until the EPA can definitively demonstrate the science and underlying data forming the basis for these actions is valid, uncompromised and replicable.

The disclosure of potentially fraudulent and criminal behavior requires that the EPA conduct an independent and public review of the science prior to implementing these findings and regulations. It would be unconscionable for the EPA to ignore what appear to be systematic attempts by certain scientists to achieve preordained results, as well as efforts by the same scientists to discredit and censor others who reached conclusions differing from official UNIPCC dogma.

---

<sup>1</sup> November 25, 2008, Letter to Administrator Stephen L. Johnson regarding Advanced Notice of Proposed Rulemaking on Regulating Greenhouse Gases under the Clean Air Act.

The Honorable Lisa P. Jackson

December 9, 2009

Page 2

Using uncertain and highly questionable science to institute volumes of onerous new regulations on employers who have never before been subject to EPA regulation is unprecedented and shows a real disregard for the preservation of American jobs, as well as families and businesses struggling to make ends meet.

As stated in the proposed Endangerment Finding, the EPA "relied most heavily on the major assessment reports of both the Intergovernmental Panel on Climate Change (IPCC) and the U.S. Climate Change Science Program (CSSP). EPA took this approach rather than conducting a new assessment of the scientific literature."<sup>2</sup>

I vehemently disagree that these reports ever provided sufficient legal basis for the EPA to find that natural gases, such as carbon dioxide, present any danger to public health or welfare. Further, the EPA most certainly cannot continue to rely on them, given the strong probability that the reports provide an incomplete review of the scientific literature and are likely underpinned by manipulated data and calculations that cannot be independently replicated. Put another way, the EPA sought to make its case on these now-discredited reports, rather than performing its own independent scientific analysis and literature review, in order to quickly force these regulations onto the American people. To regain the trust of the American people and send a strong message against falsifying scientific data, the EPA should now withdraw the proposed finding and rules.

A complete public release and independent scientific review of the raw data compromised by unethical scientists is now critical in order for the scientific community and public policy makers to understand how it was manipulated to manufacture a preordained result. The EPA must also explain if and how this manipulated data affects other data sets or analyses. Failure to do so will almost certainly result in lengthy judicial appeals of the findings and rules, efforts in which states like Texas may well aggressively participate.

Whether through cap and trade legislation pending in the U.S. Senate or through EPA mandates, the regulation of carbon dioxide emissions will impose a massive and devastating cost on U.S. jobs and our economy, particularly harming energy-producing states like Texas. It is unacceptable to risk the livelihood of hundreds of thousands of hardworking Texans and cause massive price increases in electricity, natural gas and gasoline without first demonstrating, beyond a doubt, that the science underlying these actions is uncompromised.

---

<sup>2</sup> Proposed Endangerment and Cause and Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act, Fed. Reg. 18886, 18894 (proposed August 24, 2009).

The Honorable Lisa P. Jackson  
December 9, 2009  
Page 3

There is no compelling reason for the EPA to continue on its current, expedited path, given that the Supreme Court made it clear in *Massachusetts v. EPA* that the agency has no deadline to determine whether or not carbon dioxide poses a threat to the public. Furthermore, the Supreme Court decision clearly allows the EPA to decline to regulate greenhouse gases "if the scientific uncertainty is so profound that it precludes EPA from making a reasoned judgment," a condition that clearly exists today.<sup>3</sup> Additionally, the EPA admitted in the Tailoring Rule that Congress never intended for carbon dioxide to be regulated through the Clean Air Act, hence the necessity of the questionable legal gymnastics performed in the justification for that rule.

Finally, I note that the EPA's own data shows that Texas' carbon dioxide emissions have fallen more than nearly every other state this decade. This decrease is a by-product of Texas' regulatory and legal environment, which has allowed more wind power to be constructed than any other state. We have also attracted new, clean, low-emission power generation to displace older, inefficient generation, reducing emissions through flexible and science-based permitting and monitoring.

Rather than making it more difficult to produce domestic energy and build new facilities that provide good jobs for our citizens, the EPA and other federal agencies should focus on streamlining the regulatory process and removing barriers for air permits. This would allow the replication of Texas' economic, energy and clean air successes in other states.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly stylized font. The first name "Rick" is written in a larger, more prominent script than the last name "Perry".

Rick Perry  
Governor

RP:blp

---

<sup>3</sup> *Massachusetts v. EPA*, 549 U.S. 497, 533 (2007).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR - 1 2010

OFFICE OF  
AIR AND RADIATION

The Honorable Rick Perry  
Governor of Texas  
Post Office Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter of December 9, 2009 to Administrator Jackson concerning the disclosure of emails from the Climatic Research Unit of the University of East Anglia (CRU) and the potential economic impacts of actions the U.S. Environmental Protection Agency (EPA) is taking under the Clean Air Act to address the threat of climate change. I am pleased to respond on her behalf.

On April 2, 2007, the United States Supreme Court held that the term "air pollutant" in the Clean Air Act includes greenhouse gas emissions, which "fit well within the Clean Air Act's capacious definition[.]" *Massachusetts v. EPA*, 549 U.S. 497, 528-29 (2007). In the words of the Court, "On its face, the definition embraces all airborne compounds of whatever stripe, and underscores that intent through the repeated use of the word 'any.' Carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons are without a doubt 'physical [and] chemical ... substance[s] which [are] emitted into ... the ambient air.' The statute is unambiguous." *Id.* at 532.

In its decision, the Supreme Court directed the Administrator to answer the endangerment question posed by a now ten-year-old rulemaking petition for vehicle greenhouse gas standards under section 202(a) of the Act. *Id.* at 534-35. The Court wrote that the Agency could not decline to make the endangerment determination unless "the scientific uncertainty is so profound that it precludes EPA from making a reasoned judgment as to whether greenhouse gases contribute to global warming[.]" *Id.* at 534. The Court also made clear that the Administrator was not permitted to consider policy judgments, such as international negotiation strategy, that "have nothing to do with whether greenhouse gas emissions contribute to climate change. *Id.* at 533.

In response to the *Massachusetts v. EPA* decision, EPA took the action mandated by the Supreme Court by undertaking a comprehensive and transparent review of the current science. The scientific evidence of the cause and effects of climate change that EPA considered included

numerous independent datasets and hundreds of papers published in peer-reviewed literature. Taken together, this evidence presented an overwhelming case that human activities are significantly contributing to dangerous climate change.

A deliberate, public, and transparent process of the sort that EPA has employed for its actions to date is critical to EPA's efforts to reduce emissions of harmful greenhouse gases in a way that provides lasting benefits to the health of our nation and our economy. For the endangerment finding, EPA published an Advanced Notice of Proposed Rulemaking (ANPR) in July 2008, a Notice of Proposed Rulemaking (NPR) in April 2009, and a Final Endangerment and Cause and Contribute Finding in December 2009. The ANPR had a 120-day comment period during which we received over 200,000 public comments; the NPR had a 60-day comment period during which we received over 380,000 public comments. In preparing the final rule, the Agency considered the public comments we received. The final endangerment finding was also reviewed by all federal agencies with an interest in this issue. EPA is committed to continuing this type of open, transparent, public process in our other rulemakings.

Before Administrator Jackson signed the final endangerment finding, the EPA also carefully considered the disclosure of emails from the Climatic Research Unit (CRU) of the University of East Anglia. EPA scientists responsible for assembling the scientific record reviewed many of the emails themselves. Based on that review, the Agency weighed the potential implications of the emails and concluded that they do not alter our current understanding of the state of climate change science as reflected in the scientific record for the endangerment determinations. Thanks to that review and because the substantive issues to which the CRU email pertained had already been raised by commenters, EPA addressed the specific substantive issues to which the CRU emails were related, as well as other technical issues relating to climate change data and analyses, in the response to comments document that accompanied the final endangerment determination, which can be found at <http://www.epa.gov/climatechange/endangerment.html>.

Finally, after EPA had completed a thorough review of the scientific literature, had issued a detailed proposal, and had received and reviewed over 580,000 public comments, Administrator Jackson reached the well-documented conclusion that an overwhelming case had been made that greenhouse-gas pollution does endanger the health and welfare of the American public.

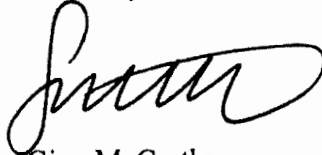
In your letter, you also express concern that EPA regulation of greenhouse gas emissions will impose massive cost on U.S. jobs and our economy. Let me assure you that the regulations establishing light-duty vehicle greenhouse gas emission standards and Prevention of Significant Deterioration permitting of large source greenhouse gas emissions will be written and implemented in ways that reflect Administrator Jackson's on-going commitment to exercising existing statutory authority in a common sense manner that enhances the U.S. economy's potential for and job creation. EPA recognizes both the importance of the endangerment finding and the need for the U.S. economy to regain sound footing.

As the Administrator often points out, clean energy is essential for establishing a strong, sustainable foundation for future U.S. economic growth. We understand the need to protect and

create jobs, and we look for opportunities to both reduce emissions and create incentives for clean energy and manufacturing job growth in the U.S.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may call Sarah Hospodor-Pallone in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina McCarthy', with a large, stylized loop at the end.

Gina McCarthy  
Assistant Administrator



AL-10-000-3318  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR - 5 2010

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Perry:

I congratulate you on Texas's success in meeting the February 17, 2010, American Recovery and Reinvestment Act (ARRA) deadline for using Clean Water and Drinking Water State Revolving Funds (SRF). According to our records, Texas reports that all of its ARRA SRF funding is under contract. Thank you for your partnership and leadership in moving Clean Water and Drinking Water projects to construction, bringing needed jobs into the economy.

We know these funds are vital to your state's economy and to improving basic infrastructure for your residents. When leveraged with annual SRF funding, these funds should bring a significant increase in SRF projects to Texas. Now that all funding is under contract, we encourage every effort to ensure that outlays proceed at an accelerated pace. EPA stands ready to help you in any way possible as we continue to implement ARRA together.

I encourage you to contact me or have your Recovery official contact Mr. Craig Hooks, Assistant Administrator for Administration and Resources Management and the Agency Senior Responsible Official for ARRA activities, if there are any issues we can help resolve as we move forward. Mr. Hooks can be reached at (202)564-4600 or by email at [hooks.craig@epa.gov](mailto:hooks.craig@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson".

Lisa P. Jackson



AL-10-000-8774

OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

May 28, 2010

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Mr. President:

Among the priorities of our nation, and your administration, is to emerge from the current international economic crisis by creating more American jobs. Critical to that recovery is reducing America's dependence on foreign energy, encouraging domestic job creation and cleaning our air, water and environment.

In recent years, Texas has made great progress in economic, energy and environmental achievement, but these gains are severely threatened by recent actions taken by the Environmental Protection Agency (EPA). Earlier this week, EPA took unprecedented steps to quash Texas' federally delegated, successful Title V permitting program and replace it with a less effective Washington-based, bureaucratic-led, command and control mandate.

As you may be aware, Texas began permitting facilities in 1971, six years prior to the existence of any federal air permitting program. Over the past decade, as our state added much of the nation's job, population and economic growth, the Texas clean air program has achieved a 22 percent reduction in ozone and a 46 percent decrease in Nitrogen Oxide (NOx) emissions. Our successful Title V permitting program went into effect in 1994 under Governor Ann Richards and was approved by the Clinton administration.

Texas is improving air quality much faster than the nation as a whole. For example, as national NOx emissions fell by approximately 27 percent between 2000 and 2008, Texas NOx emissions plummeted 46 percent. Texas electricity generators have the 11<sup>th</sup> lowest NOx emissions rates for all states, according to EPA data. Houston is second only to Atlanta in the total percent decrease in ozone for metropolitan areas since 2000, even with a 20 percent increase in population. Not a single county in Texas is in nonattainment for fine particulate matter (PM<sub>2.5</sub>), one of the pollutants with the greatest effect on human health.

The Honorable Barack Obama  
May 28, 2010  
Page 2

Penalizing Texas will undermine those significant environmental and economic successes and harm America's leading producer of domestic energy, refined products and chemicals. The facts prove that Texas' air quality permitting program is achieving significantly cleaner air while encouraging jobs and economic growth.

If not for the state permitting program that EPA now opposes, grandfathered coal-burning power plants would still be allowed to emit pollution without any controls, and EPA would have absolutely no recourse. Texas' program alone brought about a more than 80 percent reduction in emissions, totaling hundreds of thousands of tons, from facilities in the state. Additionally, dismantling our state program, as is currently being pursued by EPA, will cause existing permitted emissions to increase from the same facilities with which EPA has expressed concern.

EPA's unwarranted actions will kill good American jobs, reduce our economic output, and undermine critical domestic energy and petrochemical supplies for all 50 states. Worse still, EPA's actions are unwarranted, given the tremendous air quality improvements that have been made in Texas.

In the interest of protecting air quality gains, American jobs and domestic energy supplies, I respectfully and strongly request that you stop EPA's efforts to take over the Texas air quality program already delegated to our state as was allowed for and contemplated in the Federal Clean Air Act.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly stylized font.

Rick Perry  
Governor

RP:ack

cc: Texas Congressional Delegation  
Ms. Lisa P. Jackson, Administrator, EPA  
Ms. Carol M. Browner, Assistant to the President for Energy and Climate Change, White House



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 25 2010

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, TX 78711

Dear Governor Perry:

On May 28, 2010 you wrote to President Obama regarding our shared goals of reducing America's dependence on foreign energy, encouraging domestic job creation and protecting our air, land and water from pollution. In the letter, you outlined your concerns with EPA as it works with the Texas Commission on Environmental Quality (TCEQ) to correct deficiencies with the state's air permitting program.

EPA is responsible for ensuring that the people of Texas receive the health protection they deserve -- the same level of protection established for all Americans in the Clean Air Act. While air quality has indeed improved in Texas in recent years, as it has throughout the country, the fact remains that many Texans are living in areas where air quality does not meet federal standards set to protect the health and welfare of your citizens. A permitting program that complies with the Clean Air Act is an essential part of every state's clean air program, and assures that industrial facilities contribute effectively to emission reduction goals. The time is now for Texas regulators and the EPA to work together to find common ground for a permitting program that meets federal requirements and the needs of the public and business in Texas.

We welcome state leadership on clean air and agree that the Clean Air Act envisions state control of clean-air programs, with support from EPA when needed. That is most certainly our goal. But states must exercise their delegated authority within the national framework established by Congress. We cannot overlook failure of the state to correct program deficiencies that violate the federal Clean Air Act. While we could be compelled to take over the program from the state, EPA is continuing to work toward resolving program deficiencies with a goal of maintaining a fully delegated program to Texas.

By working together through these difficult challenges, I believe we will resolve these issues in a mutually agreeable manner. I have no doubt that we can protect the health of Texans and at the same time promote economic growth and jobs.

Again, thank you for your letter and willingness to raise your concerns. We are committed to continuing to work with you, your staff, the public and Texas businesses in a spirit of partnership to provide your state the health protection every Texan deserves. If you have further questions, please contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa P. Jackson', with a large, stylized loop at the beginning and a long horizontal stroke extending to the right.

Lisa P. Jackson



AL-10-001-6949  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 6 2010

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, TX 78711

Dear Governor Perry:

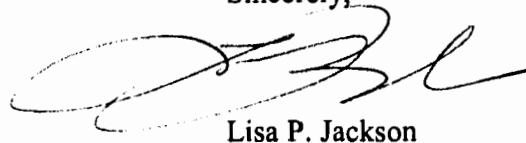
As you are aware, the President has signed an Executive Order creating the Gulf Coast Ecosystem Restoration Task Force and has asked me to serve as the Chair. The Task Force includes key federal agencies, such as the Departments of Interior, Commerce, Agriculture, Justice, Transportation, and Defense as well as other offices from within the Executive Office of the President. In addition, the Task Force will include five State representatives, appointed by the President upon recommendation of the Governors of each Gulf State.

Please accept this letter as my formal request for a State representative to join me on this Task Force. The representative that you select should be an elected officer of State government (or their designated employee with authority to act on their behalf) acting in their official capacity. I am asking to receive your State representative selection by October 22, 2010, so that we can convene an initial meeting of the Task Force on November 8. The meeting will be held in the Florida panhandle (exact location to be determined), and I invite you to personally join us for this initial kickoff meeting if possible. If you have any questions before making your state representative selection, please contact me or your staff can call Janet Woodka at (202) 564-7362.

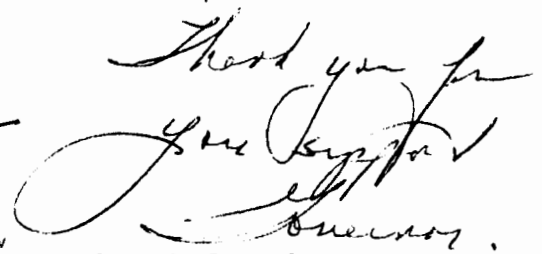
President Obama has said many times that our commitment to the families and environment in the Gulf extends far beyond capping the well. Our work is not complete until the people and the environment they rely on are on the path to restoration and recovery. This Task Force will be a true partnership with the local communities of the Gulf Coast. We will conduct our important work in a transparent and inclusive manner, and we will seek diligently to cut through the red tape that can often constrain long term recovery efforts.

I am proud to take on leadership of this Task Force and honored to have a representative from your State join me. As someone charged with protecting health and the environment and as someone who grew up as part of the gulf coast community, I welcome the opportunity to make a difference for the people of this region with the other members of this Task Force.

Sincerely,



Lisa P. Jackson



Thank you for  
your support



AL-10-001-8747

OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

October 26, 2010

RECEIVED  
2010 NOV -9 AM 8:19  
OFFICE OF THE  
EXECUTIVE SECRETARY

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator Jackson:

This letter is in response to your request for the recommendation of a state official from Texas to serve alongside you on the newly created Gulf Coast Ecosystem Restoration Task Force. Please accept my formal recommendation of Land Commissioner Jerry Patterson to serve in this role. If you have any questions, please contact Toby Baker in my office at (512) 463-5856.

Sincerely,

*RICK PERRY*

Rick Perry  
Governor

RP:tbp

cc: The Honorable Jerry Patterson



AL-10-001-8930

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 16 2010

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Congratulations on your recent re-election. I continue to offer my assistance to you and your Administration on any matters that arise in our mutual effort to improve the environment and human health.

As you may know, prior to my tenure as the Administrator of the U.S. Environmental Protection Agency (EPA), I was Commissioner of New Jersey's State Department of Environmental Protection. I know first-hand the importance of a productive Federal-State partnership on the core issues of protecting air and water quality, preventing exposure to toxic contamination in our communities, and reducing greenhouse gases. For our part, EPA's efforts on these core issues and others will follow the best available science and adhere to the rule of law. I look forward to our continued partnership with Texas and pledge EPA's responsiveness and transparency in our decision making.

As always, please contact me any time, or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178. Your EPA Regional Office also stands ready to assist you with any environmental matter. Congratulations again, and I look forward to a continued productive partnership.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson



AL-11-000-2368

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 15 2011

THE ADMINISTRATOR

Governor Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711-2428

Dear Governor Perry:

Congress passed the American Recovery and Reinvestment Act nearly two years ago on February 17, 2009. At the time of enactment of the Recovery Act, states across the nation were struggling with the effects of one our country's most significant economic downturns. The Recovery Act provided an unprecedented resource infusion to jumpstart our economy, create or save millions of jobs, and address long-standing challenges throughout the nation. The Recovery Act provided \$7.2 billion for environmental programs that funded much needed clean water and drinking water infrastructure, implemented diesel emission reduction technologies, cleaned up leaking underground storage tanks, revitalized and reused Brownfields, and cleaned up Superfund sites.

I would like to express my thanks to your state environmental departments and agencies for their efforts and success in administering Recovery Act resources throughout your state. As of the end of calendar year 2010, 100 percent of appropriated environmental program funds have been obligated and 70 percent have been outlaid nationwide. As reported by recipients of environmental Recovery Act awards, nearly 16,000 jobs were funded during the last reporting quarter. These significant achievements are a direct reflection of the careful stewardship and extraordinary program management exhibited by state environmental, health and natural resource managers.

While much remains to be done to complete our Recovery Act projects, we look forward to partnering with you in 2011 to finish this important work, knowing that our joint efforts will protect and promote green jobs, create a healthier environment, and continue to put America back to work. If you have any questions or issues regarding outlays of Recovery Act funds, please contact me or your staff may contact Craig Hooks, Assistant Administrator for the Office of Administration and Resource Management and senior accountable official for the Recovery Act, at (202) 564-4600 or by email at [hooks.craig@epa.gov](mailto:hooks.craig@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson".

Lisa P. Jackson



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AE11-000-9469

JUN 9 2011

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428

Dear Governor Perry:

Later this month, the U.S. Environmental Protection Agency (EPA) will announce the five winners of the 2011 Presidential Green Chemistry Challenge Awards. I am pleased to inform you that one of your constituents, Kraton Performance Polymers, Inc., located in Houston, Texas, will receive an award.

Kraton Performance Polymers has won the Greener Reaction Conditions Award for novel membranes for water purification and moisture management. EPA and the attendees from Kraton Performance Polymers would be honored if you or your staff could attend the awards ceremony.

Steve Owens, Assistant Administrator for the EPA's Office of Chemical Safety & Pollution Prevention, will present the 2011 Presidential Green Chemistry Challenge Awards to Kraton Performance Polymers and four other recipients at our ceremony in the Pavilion of the Ronald Reagan Building, 1300 Pennsylvania Ave., NW, Washington, D.C. on Monday, June 20, 2011, at 5:30 p.m. The ceremony will last approximately one hour. Assistant Administrator Owens expects to be joined by representatives of the White House, the American Chemical Society, and other federal agencies.

The Presidential Green Chemistry Challenge Program is a voluntary partnership between the EPA and the chemical industry and broader scientific community. The annual awards recognize outstanding innovations in green chemistry that are scientifically, environmentally, and economically beneficial. The results of this national competition are impressive; since 1996, the 82 award-winning technologies have eliminated the use and generation of hundreds of millions of pounds of toxic substances, while saving energy and lowering costs. Details are available on the program's website at [www.epa.gov/greenchemistry](http://www.epa.gov/greenchemistry).

If I can be of further assistance, please contact me, or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations at (202) 564-7178.

Sincerely,

Lisa P. Jackson

*Congratulations!*

## Detail



AL-11-000-9232

## Citizen Information

[Generate Control Slip](#)

Citizen/Originator: 1). Brown, Edmund G. - 1300 I Street Suite 1100 PO Box 94255, Sacramento, CA 94244  
 2). Daugaard, Dennis - 500 East Capitol, Pierre, SD 57501  
 3). Dayton, Mark - 130 State Capitol, St. Paul, MN 55155  
 4). Kasich, John R - 77 South High Street, 30th Floor, Columbus, OH 43215  
 5). Perry, Rick - P.O. Box 12428, Austin, TX 78711  
 6). Taylor, Mary - 77 South High Street, Columbus, OH 43266-0603

Constituent:

Committee:

Sub-Committee:

## Control Information

<b>Control Number:</b>	AL-11-000-9232	<b>Alternate Number:</b>	
<b>Status:</b>	Closed	<b>Closed Date:</b>	Jun 29 2011
<b>Due Date:</b>	Jun 22 2011	<b># of Extensions:</b>	0
<b>Letter Date:</b>	Jun 08 2011	<b>Received Date:</b>	Jun 08 2011
<b>Addressee:</b>		<b>Addressee Org:</b>	
<b>Contact Type:</b>	LTR (Letter)	<b>Priority Code:</b>	Normal
<b>File Code:</b>	404-141-02-01_141_a(1) Controlled and Major Corr. Record copy of of the offices of the EPA Administrator & other senior officials - Nonelectronic		
<b>Signature:</b>	AD-Administrator		
<b>CC:</b>			
<b>Signature Date:</b>	N/A		
<b>Primary Subject:</b>	2011 PRESIDENTIAL GREEN CHEMISTRY CHALLENGE AWARDS	<b>Secondary Subject:</b>	
<b>Instructions:</b>	GOV- Again, thank you for your letter. If you have further questions or concerns, please contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178		
<b>General Notes:</b>	LETTER GENERATED IN THE PROGAM OFFICE; NO INCOMING LETTER		

## Lead Information

Lead Author: N/A

## Lead Assignments:

Assigner	Assignee	Office	Assigned	Due Date	Completed	Instructions
Cassandra Eades	Anthony Raia	OCIR	06/08/2011	06/22/2011	06/29/2011	GOV- Again, thank you for your letter. If you have further questions or concerns, please contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178

## Supporting Information

---

**Supporting  
Author:** N/A

**Supporting Assignments:**

Assigner	Assignee	Office	Assigned Date
No records found.			

## History

---

Action By	Office	Date	Action
Cassaundra Eades	OCIR	06/08/2011	Assign Anthony Raia as lead
Anthony Raia	OCIR	06/28/2011	Request for Closure
Cassaundra Eades	OCIR	06/29/2011	Closure Request Approved

## Comments

---

Commentator	Date	Comments
Anthony Raia	06/28/2011	This should be closed please. This is a duplicate to AL-11-000-9469. Thank you.

AL-11-001-0623

**THE WHITE HOUSE OFFICE  
REFERRAL**

June 27, 2011

**TO:** ENVIRONMENTAL PROTECTION AGENCY

**ACTION COMMENTS:**

**ACTION REQUESTED:** DIRECT REPLY W/COPY

**REFERRAL COMMENTS:**

**DESCRIPTION OF INCOMING:**

**ID:** 1058256

**MEDIA:** EMAIL

**DOCUMENT DATE:** June 24, 2011

**TO:** PRESIDENT OBAMA

**FROM:** THE HONORABLE RICK PERRY

AUSTIN, TX 78711

**SUBJECT:** EXPRESSES HIS CONCERN WITH EPA CLEAN AIR TRANSPORT RULE THAT IS  
SCHEDULED FOR FINAL SIGNATURE ON JUL 1 11 REGARDING THE REGULATION  
OF SULFUR DIOXIDE EMISSIONS

**COMMENTS:**

---

---

---

**PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.**

**RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 85, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500  
FAX A COPY OF REPOSE TO: (202) 456-5881**

**THE WHITE HOUSE  
DOCUMENT MANAGEMENT AND  
TRACKING WORKSHEET**



**DATE RECEIVED:** June 27, 2011

**CASE ID:** 1058256

**NAME OF CORRESPONDENT:** THE HONORABLE RICK PERRY

**SUBJECT:** EXPRESSES HIS CONCERN WITH EPA CLEAN AIR TRANSPORT RULE THAT IS SCHEDULED FOR FINAL SIGNATURE ON JUL 11 REGARDING THE REGULATION OF SULFUR DIOXIDE EMISSIONS

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION		DISPOSITION	
		CODE	DATE	TYPE RESPONSE	CODE DATE COMPLETED
INTERGOVERNMENTAL AFFAIRS	MIKA ROTHMAN	ORG	06/27/2011		

**ACTION COMMENTS:**

✓ ENVIRONMENTAL PROTECTION AGENCY R 06/27/2011

**ACTION COMMENTS:**

**ACTION COMMENTS:**

**ACTION COMMENTS:**

**ACTION COMMENTS:**

**COMMENTS:**

**MEDIA TYPE:** EMAIL

**USER CODE:**

ACTION CODES	DISPOSITION		
<b>A</b> = APPROPRIATE ACTION <b>B</b> = RESEARCH AND REPORT BACK <b>D</b> = DRAFT RESPONSE <b>I</b> = INFO COPY/NO ACT NECESSARY <b>R</b> = DIRECT REPLY W/ COPY <b>ORG</b> = ORIGINATING OFFICE	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	<b>A</b> = ANSWERED OR ACKNOWLEDGED <b>C</b> = CLOSED <b>X</b> = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

**KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES**

**REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2690**

**SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 86, EEOB.**

**Scanned By  
ORM**



1058256

## OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

June 24, 2011

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear President Obama:

I am writing to express my concern with the Environmental Protection Agency's (EPA) Clean Air Transport Rule (CATR) that is scheduled for final signature on July 1, 2011. It seems the EPA is in several ways ignoring your recent directive in Executive Order 13563, Improving Regulation and Regulatory Review.

I am specifically concerned with the regulation of sulfur dioxide (SO<sub>2</sub>) emissions because of possible contributions to concentrations of ambient particulate matter of less than 2.5 microns (PM<sub>2.5</sub>). Currently, EPA recognizes that Texas does not meet the threshold for inclusion in the PM<sub>2.5</sub> portion of CATR. However, based on recent information, EPA appears poised to include Texas in the final rule based on hypothetical projections.

Your executive order calls for regulations to be based on, "the open exchange of information and perspectives among state, local and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector and the public as a whole." The manner in which EPA proposed Texas' inclusion without any real information (emission rates, allowances, etc.) about what inclusion would mean effectively eliminated Texas' opportunity to review and comment on this aspect of the rule, thus violating your expressed desire for an open exchange of information.

Additionally, Executive Order 13563 states that regulations must "take into account benefits and costs, both quantitative and qualitative" and should promote "economic growth, innovation, competitiveness and job creation." To the contrary, the proposed rule will have a devastating effect on Texas jobs and our economy, will bring the state dangerously close to an electricity shortage for our citizens and will increase the cost of electricity to Texas families and employers. Texas' electric generation reserve margin could be impacted significantly, potentially falling ~20-40 percent lower than targeted levels. In order to comply, it is estimated that 5-8 electric

The Honorable Barack Obama  
June 24, 2011  
Page 2

generation units would have to close down partially or completely, affecting thousands of Texas jobs. If the SO<sub>2</sub> allowance is further lowered, the consequence to reserve margins and jobs is even more substantial. Given the short timeline for implementation, it is uncertain how this generation will be replaced in a timely and cost effective manner.

The ripples caused by this rule will be directly felt by not only the citizens of Texas, but the nation as a whole. I remind you that most of the chemicals produced in the United States are produced in Texas and that one-quarter of the refining capacity of the United States is found in Texas. EPA's rule will drive costs up significantly for both the chemical and refining sectors, and these costs will be passed on to end users. This is simply unacceptable, and I implore you to intervene on the state's and nation's behalf. With the cost of gasoline near all-time highs, I firmly believe this rule will only push prices higher.

The State of Texas takes air quality very seriously, which is evidenced by Texas leading the nation in the reduction of ozone from 2000 to 2009. Texas has reduced ozone by 27 percent and nitrogen oxides (NO<sub>x</sub>), a precursor to ozone, by 58 percent during the same time period while we added jobs and population. I find it troubling that EPA's rule is built on hypothetical projections rather than specific data, again violating the executive order that calls for each agency to "ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions." EPA's approach allows for a constantly moving target, providing neither regulatory certainty in future rulemakings nor the ability to participate in the regulatory process.

I respectfully ask that Texas be removed from inclusion in the proposed rule for the PM<sub>2.5</sub> portion of CATR. Thank you for your consideration of this request. Please do not hesitate to contact Toby Baker on my staff with questions at (512) 463-1778.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly stylized font. The first name "Rick" is written in a larger, more prominent script than the last name "Perry".

Rick Perry  
Governor

RP:tbp

cc: Mr. Cass R. Sunstein, Office of Management and Budget  
Ms. Lisa P. Jackson, Administrator, EPA

AL-11-001-6607

**THE WHITE HOUSE OFFICE  
REFERRAL**

September 27, 2011

**TO:** ENVIRONMENTAL PROTECTION AGENCY

**ACTION COMMENTS:**

**ACTION REQUESTED:** DIRECT REPLY W/COPY

**REFERRAL COMMENTS:**

**DESCRIPTION OF INCOMING:**

**ID:** 1065338

**MEDIA:** EMAIL

**DOCUMENT DATE:** September 26, 2011

**TO:** PRESIDENT OBAMA

**FROM:** THE HONORABLE RICK PERRY

AUSTIN, TX 78711

**SUBJECT:** URGES THE PRESIDENT TO USE HIS EXECUTIVE AUTHORITY TO PREVENT  
OR AT LEAST, DELAY THE ENVIRONMENTAL PROTECTION AGENCY'S EPA  
ADOPTION OF THE CROSS STATE AIR POLLUTION RULES (CSAPR)

**COMMENTS:**

---

---

---

PROMPT ACTION IS ESSENTIAL – IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT,  
UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT,  
ROOM 85, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500  
FAX A COPY OF REPOSENSE TO: (202) 456-5881

**THE WHITE HOUSE  
DOCUMENT MANAGEMENT AND  
TRACKING WORKSHEET**



**DATE RECEIVED:**

**CASE ID: 1065338**

**NAME OF CORRESPONDENT: THE HONORABLE RICK PERRY**

**SUBJECT: URGES THE PRESIDENT TO USE HIS EXECUTIVE AUTHORITY TO PREVENT OR AT LEAST, DELAY THE ENVIRONMENTAL PROTECTION AGENCY'S EPA ADOPTION OF THE CROSS STATE AIR POLLUTION RULES (CSAPR)**

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION		DISPOSITION	
		CODE	DATE	CODE	DATE COMPLETED
INTERGOVERNMENTAL AFFAIRS	VALERIE JARRETT	ORG	09/27/2011		

**ACTION COMMENTS:**

✓ ENVIRONMENTAL PROTECTION AGENCY R 09/27/2011

**ACTION COMMENTS:**

**ACTION COMMENTS:**

**ACTION COMMENTS:**

**ACTION COMMENTS:**

**COMMENTS:**

**MEDIA TYPE: EMAIL**

**USER CODE:**

ACTION CODES	DISPOSITION		
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES  
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590  
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 85, EEOB.

**Scanned By  
ORM**



1065338

**OFFICE OF THE GOVERNOR**

RICK PERRY  
GOVERNOR

September 26, 2011

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear President Obama:

Several weeks ago, you ordered the Environmental Protection Agency (EPA) to delay implementation of the National Ambient Air Quality standards for ozone. I write to you today to urge you to use that same authority to prevent or, at least, delay EPA's adoption of the Cross State Air Pollution Rules (CSAPR). I have challenged other rules that EPA has proposed or adopted in the past, but these rules are different. The implementation of CSAPR will happen quickly and will have an immediate and devastating effect on Texas jobs, our economy, and our ability to supply the electricity our citizens, schools and employers need.

Texas has filed a petition for reconsideration and stay of these rules because EPA has failed to provide the required notice and follow required procedures, the implementation timeline is impossible to meet, and the rules will have an adverse effect on the reliability of our electricity grid and on our economy. EPA failed to consider these effects before it finalized CSAPR.

On September 1, the Electric Reliability Council of Texas (ERCOT) released its assessment of the impact that CSAPR will have on the reliability of its electric grid. ERCOT estimates that implementation of these rules will result in the loss of 1,200 to 1,400 megawatts of generation during peak months and up to 6,000 megawatts in non-peak months. In the future, this will result in significant reliability challenges. As ERCOT explained, "had this incremental reduction been in place in 2011, ERCOT would have experienced rotating outages during days in August." And while ERCOT's assessment does not analyze the rules' impact on job losses, Luminant, the state's largest owner of generation, announced on September 12 that compliance with CSAPR will result in the loss of at least 500 Luminant jobs in Texas. Finally, information from Southwest Public Service Company, an Xcel Energy operating company that serves customers in Texas and New Mexico, indicates that compliance with these rules could cause electricity prices to rise 20 percent across its service territory

The Honorable Barack Obama  
September 26, 2011  
Page 2

Mr. President, you have recently proclaimed that your administration is committed to creating jobs. These rules do not create jobs. They are a job killer in Texas, and they must be stopped.

It is time for the EPA to stop and consider the staggering, cumulative impact of all of its newly proposed and adopted rules, before it proceeds any further. I urge you to use your executive authority to stop or delay the implementation of this and all other destructive rules, and to work with Congress to pass legislation that will prevent EPA from unilaterally establishing rules that kill jobs and increase electricity prices.

I appreciate your immediate and careful consideration of this most important matter.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly stylized font. The "R" is large and loops around the "ick". The "Perry" is written in a similar cursive style.

Rick Perry  
Governor

RP:mop



AL-12-001-4701

**OFFICE OF THE GOVERNOR**

RICK PERRY  
GOVERNOR

August 24, 2012

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator Jackson:

In 2008, I requested a partial waiver of the Renewable Fuel Standard (RFS) mandate for ethanol derived from grain, citing the negative economic affects the mandate has on Texas producers, consumers and commuters. Today, I am writing in support of the recent "Petition for Waiver or Partial Waiver of Applicable Volume of Renewable Fuel" by fellow governors and other leaders who formally request for you to use your discretionary authority to waive the volumetric requirements. The federal Clean Air Act, as amended by the Energy Independence and Security Act, allows you, in consultation with the Secretary of Energy and the Secretary of Agriculture, to waive the RFS requirements for up to one year if their implementation would severely harm the economy or environment of a state, a region or the United States.

The forecasts are dire, as crop yield and overall productions are projected to be lower than anticipated. Additionally, forage availability has been severely diminished, with more than 55 percent of the country's pastureland damaged by drought. Conditions regarding mandated ethanol production and the corn market are also markedly different in 2012 than 2008. Requirements for ethanol derived from corn starch have increased more than 60 percent; meanwhile, domestic corn production in 2012 will be less than in 2008, perhaps substantially so. In the past two years, more corn has been devoted to ethanol production than used for feed grain. These factors, compounded with the fact that more than 40 percent of the U.S. annual corn supply was to be used to meet the RFS corn-based ethanol requirement, threatens the sustainability of our agriculture producers.

RFS may have been a well-intentioned effort to move our country toward energy independence, but it has, predictably, done much more harm than good. Not only is it driving up grocery prices for all families, it is also putting increasing strain on businesses. Good intentions and laudable

The Honorable Lisa P. Jackson

August 24, 2012

Page 2

goals are small compensation to the families, farmers and ranchers who are being hurt by the federal government's efforts to trade food for fuel.

I urge your positive consideration of full or partial waiver of the mandated renewable fuel requirements in 2012 and 2013.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly stylized font. The "R" is large and loops around the "i". The "Perry" part is also cursive, with the "y" having a long, sweeping tail.

Rick Perry  
Governor

RP:jhp



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB - 6 2013

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter dated August 24, 2012, requesting a waiver of volume requirements under the Renewable Fuels Standard (RFS) program, in light of the drought conditions affecting much of the country.

You and Governors from several other states requested a waiver of the RFS national volume requirements pursuant to the Clean Air Act. After extensive analysis, review of thousands of comments, and consultation with the Department of Agriculture (USDA) and the Department of Energy (DOE), the Environmental Protection Agency, on November 27, 2012, published a *Federal Register* decision denying the requests for a waiver.

The EPA recognizes that last year's drought has created significant hardships in many sectors of the economy, particularly for livestock producers. However, the agency's extensive analysis makes clear that Congressional requirements for a waiver have not been met and that waiving the RFS would have little, if any, impact on ethanol demand or energy prices over the time period analyzed.

The *Federal Register* notice contains a detailed description of the analysis the EPA conducted in conjunction with DOE and USDA, along with a discussion of relevant comments we received through our public comment process.

Again, thank you for your letter. If you have further questions or concerns, please contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Jackson", is written over a horizontal line.

Lisa Jackson



AL-14-000-4049

**OFFICE OF THE GOVERNOR**

RICK PERRY  
GOVERNOR

January 9, 2014

Ms. Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency (EPA)  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW (1101A)  
Washington, D.C. 20460

Ms. Jo-Ellen Darcy  
Assistant Secretary of the Army for Civil Works  
U.S. Army  
108 Army Pentagon  
Washington, D.C. 20310-0108

RE: EPA and Army Corps Draft Clean Water Act Rulemaking

Dear Administrator McCarthy and Assistant Secretary Darcy:

I am writing to urge you to defer any further development of a rule regarding the scope of the Clean Water Act until you have consulted with Texas and other states as required by Executive Order 13132.

You are undertaking a redefinition of the term "waters of the United States," the key to jurisdiction under the Clean Water Act, because of uncertainty regarding the constitutional and statutory authority of the federal government in light of the U.S. Supreme Court cases of *SWANCC v. U.S. Army Corps of Engineers*, and *Rapanos v. United States*. In such situations of uncertainty, federal agencies should proceed with the greatest caution and consult with states early in the process of rulemaking.

My fundamental concern with any Clean Water Act rulemaking is to ensure that the rule complies with the limits that Congress and the U.S. Constitution place on the federal government's power. I am particularly concerned with how the rule will provide clear and recognizable limits to such jurisdiction, especially as it pertains to isolated wetlands and groundwater. Isolated wetlands with no continuous surface water connection to traditional navigable waters are not within the scope of the Clean Water Act. Groundwater is excluded from jurisdiction by the express language of the statute.

For these reasons, I request that Texas and other states be provided an opportunity for meaningful consultation with your agencies prior to further rule development as required by Executive Order 13132.

Sincerely,

*Rick Perry*

Rick Perry  
Governor

RP:rvk



JUN - 6 2014



The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your January 17, 2014, letter to the Department of the Army and the U.S. Environmental Protection Agency regarding the agencies' joint rulemaking to clarify the jurisdiction of the Clean Water Act.

The agencies released a proposed rule on March 25, 2014, in order to provide additional clarity regarding the geographic scope of CWA jurisdiction and to improve national consistency and predictability. The agencies took this step in response to requests from a broad range of interests including members of Congress, states, industry, agriculture, environmental groups, and other stakeholders that we clarify the geographic scope of CWA jurisdiction through formal notice and comment rulemaking. The proposed rule will be open for public comment until July 21, 91 days after it was published in the Federal Register on April 21, 2014.

We respect and appreciate states' efforts as co-regulators as we both strive to protect aquatic resources. State governments have well-defined and longstanding relationships in implementing affected CWA programs and our agencies have undertaken the rulemaking process in a way that has recognized these strong relationships. As we developed the draft proposed rule, our agencies held several in-person meetings and numerous phone calls with state associations and state and local government agencies to seek input. During this process, the State of Texas as well as other state and local governments identified a number of issues, which our agencies have considered in developing the proposed rule.


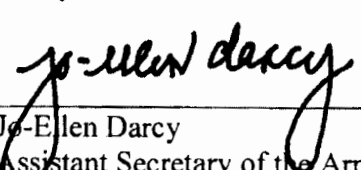
As part of our work to develop a proposed rule, the agencies voluntarily undertook Federalism consultation, holding a series of meetings and outreach calls with state and local governments and their representatives soliciting input on a potential rule, and the agencies considered the written and oral comments from state and local governments when developing the proposed rule. As part of this effort, we consulted with the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the County Executives of America, the National Associations of Towns and Townships, the International City/County Management Association, and the Environmental Council of the States. In addition, we also invited the National Association of Clean Water Agencies, the Western Governors' Association and the Association of Clean Water Administrators to participate. As part of this effort, we asked participants to provide input on what should be contained in a proposed rule and what areas of the definition of "waters of the United States" needed additional clarity. We received written comments from twelve counties, eight associations, and agencies from Texas and five other states. In their written and oral comments, state and local governments identified a number of issues, including concerns about state authority over water rights, the jurisdictional status of groundwater, and

the overall scope and extent of jurisdiction. More than 400 people participated in these discussions, and participants represented a wide variety of state and local agencies and associations, including the Western Governors' Association and the Western States Water Council.

We look forward to further engagement with Texas and other state partners now that we have released a proposed rule for public comment. During the 91-day public comment period, we welcome additional comments from states and other stakeholders. We have also begun additional outreach with state and local government officials and associations to review states' prior comments and to discuss how the agencies addressed such concerns in the proposed rule. We look forward to additional dialogue with states and other stakeholders across the country in the coming weeks. We will ensure the procedures we follow throughout our rulemaking process are as transparent as possible and consistent with the Administrative Procedure Act and other applicable requirements. Additionally, the agencies will include with the final rule a detailed narrative of intergovernmental concerns raised during the course of the rule's development and a description of the agencies' efforts to address them.

Thank you again for your letter. If you have further questions or concerns, please contact us or your staff may call Mark Rupp, Deputy Associate Administrator for Intergovernmental Relations, at [rupp.mark@epa.gov](mailto:rupp.mark@epa.gov) or (202) 564-7178; or Mr. Chip Smith in the Office of the Assistant Secretary of the Army (Civil Works) at [charles.r.smith567.civ@mail.mil](mailto:charles.r.smith567.civ@mail.mil) or (703) 693-3655.

Sincerely,

  
Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
Jo-Ellen Darcy  
Assistant Secretary of the Army  
(Civil Works)



AL-14-000-4735

**OFFICE OF THE GOVERNOR**

RICK PERRY  
GOVERNOR

January 27, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Ariel Rios Building, Room 300  
Washington, D.C. 20460

RE: Petition for Waiver Under Clean Air Act Section 211(o)(7)(A)

Dear Administrator McCarthy:

In 2008, I requested a partial waiver of the Renewable Fuel Standard (RFS) mandate for ethanol derived from grain, citing the negative economic affects the mandate has on Texas producers, consumers and commuters. In 2012, I wrote in support of a full or partial waiver request by fellow governors and other leaders when, with more than 55 percent of the country's pastureland damaged by drought, the ethanol mandate threatened to compromise crop yield and overall production. Today, I am writing in support of the recent petition for a partial waiver of the 2014 applicable volumes of RFS by the American Petroleum Institute and American Fuel and Petrochemical Manufacturers.

Today, more than 50 percent of the country is experiencing abnormally dry to exceptional drought conditions, a trend the U.S. drought monitor expects to persist over the next 12 months. While the impacts of drought will continue to threaten U.S. and Texas farmers and producers, this year, we are faced with another challenge created by RFS. While renewable fuel requirements are increasing annually, gasoline demand in the United States is steadily declining. This dynamic has created the E10 blendwall — the point at which more renewable fuel is required to be blended than can be safely consumed in the United States, due to fundamental constraints imposed by fueling infrastructure and problems of gasoline engine incompatibility with increased ethanol blends.

The mandate currently requires U.S. gasoline suppliers to demonstrate compliance with RFS through Renewable Identification Numbers (RINs). The number of RINs available is tied directly to the level of consumption of renewable fuels in U.S. transportation fuels. As RFS

The Honorable Gina McCarthy  
January 27, 2014  
Page 2

mandates exceed the ability of the underlying fuel supply and vehicle and infrastructure compatibility to accommodate additional amounts of renewable fuels, there will be a shortage of RINs available for compliance, thereby limiting supplies of gasoline and diesel for U.S. consumption. Such a shortage will result in severe economic harm to consumers and the overall economy if not corrected now.

Your agency has rightfully acknowledged the blendwall and exercised its authority in the proposed 2014 RFS volumes rule by waiving the volumes to just below 10 percent ethanol. I strongly encourage you to stay the course and remain steadfast in your resolve to avoid the blendwall and unnecessary economic harm as you finalize the 2014 RFS volumes. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly stylized font.

Rick Perry  
Governor

RP:rvp



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 11 2014

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter, dated January 27, 2014, to the U.S. Environmental Protection Agency requesting that the agency finalize its proposal to waive the 2014 volume requirements under the Renewable Fuel Standard program.

On November 29, 2013, the EPA published in the *Federal Register* a proposed rule that would establish the 2014 RFS volume standards. In developing the proposed volumes, the agency used the most recent data available and took into consideration multiple factors. Our analysis included an evaluation of both the expected availability of qualifying renewable fuels as well as factors that, in some cases, limit supplying those fuels to the vehicles and equipment that can consume them. On the basis of our analysis, we proposed to reduce the required volumes from statutory levels for 2014 for cellulosic biofuel, advanced biofuel, and total renewable fuel. We proposed to maintain the same volume for biomass-based diesel for 2014 and 2015 as was adopted for 2013, but we have requested comment on whether to raise the biomass-based diesel volume requirement.

Concurrently, the EPA published a *Federal Register* notice acknowledging the receipt of petitions for a waiver of the renewable fuel standards that would apply in 2014. At the time, we stated that any additional similar requests would be considered together with the requests already received. The EPA anticipates issuing a waiver determination at the same time as issuing a final rule establishing the 2014 RFS standards. Accordingly, we have docketed your request and will take it into account as we, in conjunction with the U.S. Department of Agriculture and the U.S. Department of Energy, work towards finalizing the 2014 RFS volume standards.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mark Rupp, Deputy Associate Administrator for Intergovernmental Relations, at [rupp.mark@epa.gov](mailto:rupp.mark@epa.gov) or (202) 564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy".

Gina McCarthy

AL-14-000-6233



March 4, 2014

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

Last June, you conditioned approval of the Keystone XL pipeline on a finding that the project would be in our nation's interest, which would be served only if the project "does not significantly exacerbate the problem of carbon pollution." In a long-anticipated report released January 31, the State Department determined that approval of the pipeline is unlikely to result in a substantial increase in greenhouse gas emissions. Such a finding should now clear the way for final endorsement of the pipeline.

We understand that the State Department plans to undertake a 90-day process to gather input from other federal agencies and departments, and from the public toward a "national interest" determination. While this process appears reasonable on its face, we are troubled by comments from senior officials within your Administration. *The National Journal*, for example, reports that Assistant Secretary of State Kerri-Ann Jones plans to introduce tangential issues that will inform the "national interest" determination, such as the impact of project approval on international climate policy. We seriously doubt that approval or rejection of the project would impact – even marginally – the climate policies of China, India, and Russia.

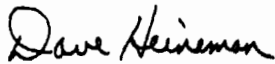
We maintain that approval of the pipeline, a critical energy infrastructure project, is clearly in the "national interest" with quantifiable benefits for not only our constituents, but for the entire American people. The State Department's report concluded that the pipeline, during construction, would support over 42,000 jobs – a substantial, meaningful number to the vast majority of Americans. We concur with the well-argued points made by many of the nation's major labor unions, including the Building and Construction Trades Department of the AFL-CIO and the International Brotherhood of Teamsters, which highlight the job benefits of Keystone XL.

Moreover, the pipeline would improve our energy security by diversifying the nation's energy infrastructure, which would help ensure access to reliable and affordable fuels for our cars and trucks. Although the United States has made impressive progress in displacing foreign petroleum in recent years, it remains in the national interest to promote, *as a percentage of total oil imports*, shipments from our friends and allies, such as Canada. We take note of a recent Bloomberg poll, which found that 56 percent of respondents view the Keystone XL pipeline "as a chance to reduce dependence on oil imports from less reliable trading partners." We agree with that assessment.

We ask that you set a prudent, rational deadline for a decision on whether the Keystone project is in the "national interest" – one based on the condition you set in June.

We look forward to working with your Administration to ensure that this pipeline, which will undoubtedly promote U.S. economic and energy security interests, is built without any further delay.

Sincerely,



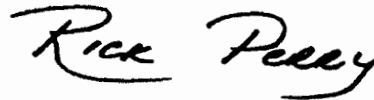
Governor Dave Heineman  
Nebraska



Governor Dennis Daugaard  
South Dakota



Governor Jack Dalrymple  
North Dakota



Governor Rick Perry  
Texas



Governor Mary Fallin  
Oklahoma

AL-14-001-1373



June 16, 2014

Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

As Governors leading diverse States that both produce and consume energy, we ask that you pursue a pragmatic energy policy that balances our nation's economic needs, energy security, and environmental quality objectives.

As you know, the energy industry is a major source of job creation in our country, providing employment to millions of our citizens and bolstering U.S. economic competitiveness. America was able to meet almost 90 percent of its energy needs last year—the most since March 1985—in large part because of increased domestic energy production. We take pride in the fact that domestic production largely powers America and increasingly other economies as well, helping to eradicate poverty and to provide political stability around the globe.

Development of our resources has put more money in the pockets of working families and has helped the poor and elderly on fixed incomes, who can now more easily afford to run their air conditioning in the heat of the summer. For example, American natural gas production is reducing average retail electricity prices by 10 percent, saving households, on average, nearly \$1,000 per year between 2012 and 2015.

This significant accomplishment of increased U.S. energy independence, with its associated economic and health benefits, has been achieved largely by State policies—despite redundant and burdensome

federal regulation. Your proposed rules for regulating greenhouse gas (GHG) emissions from existing power plants and redefining the Waters of the United States (WOTUS) would unnecessarily expand federal authority over the States in energy policymaking and risk undermining our success.

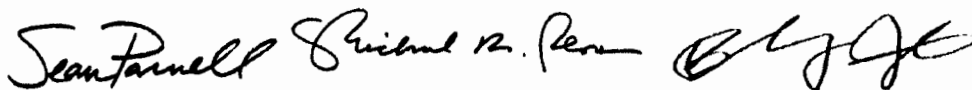
In an unprecedented move, your GHG emissions plan would largely dictate to the States the type of electricity generation they could build and operate. In addition, you seek to essentially ban coal from the U.S. energy mix. Your pursuit of this objective will heavily impact those of our states that rely primarily on coal for electricity generation—such a decision should not be made by unaccountable bureaucrats. Your Administration is also pushing for Washington to seize regulatory control of nearly all waters located in the States by expanding the definition of WOTUS. If successful, the federal government would become the arbiters of how our citizens, State highway departments, county flood control and storm water agencies, utilities, irrigation districts, and farmers use their water and their land.

Although we are still examining the impacts of the GHG proposal released on June 2 and the proposed expansion of WOTUS, we can confidently say that, according to the best available data, millions of jobs will be lost and billions of dollars will be spent over the coming decades in an effort to comply with these and other federal regulations. And those numbers stand to increase with every tightening of those standards – hitting particularly hard working families, poor, and elderly.

Perhaps most disturbing is the fact that your Administration is content to force Americans to bear these substantial costs where there are highly questionable associated environmental benefits. In fact, your EPA Administrator admitted during testimony to the U.S. Senate that there would be no climate mitigation benefits to America pursuing unilateral action. Moreover, in 2008, you personally guaranteed that under your energy plan, “electricity rates would necessarily skyrocket.” You admitted that your energy plan would have the following impact: “[Energy industries] would have to retrofit their operations—that will cost money. They will pass that money onto consumers.”

You rightly acknowledge that American citizens will literally pay the price of your energy agenda. They will also pay the price in the form of lost jobs and less reliable electricity. As representatives of the citizens who stand to lose so much while gaining next to nothing, it is our duty to confront this issue and to ask that you rescind the regulations you have put forth. Disposing of these regulations will protect Americans from the costs and burdens the rules would impose upon them and will ensure the continuation of America’s energy renaissance, which is indispensable to our country’s economic recovery and job creation and which is largely a result of State policies.

Sincerely,



Governor Sean Parnell  
Alaska

Governor Mike Pence  
Indiana

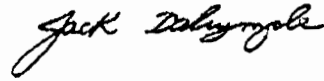
Governor Bobby Jindal  
Louisiana



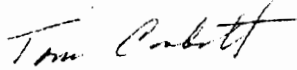
Governor Phil Bryant  
Mississippi



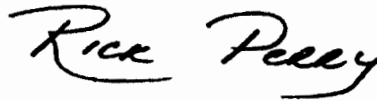
Governor Pat McCrory  
North Carolina



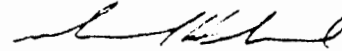
Governor Jack Dalrymple  
North Dakota



Governor Tom Corbett  
Pennsylvania



Governor Rick Perry  
Texas



Governor Matthew H. Mead  
Wyoming



OAK-10-001-7511 ✓

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 16 2010

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
State Capitol  
Austin, TX 78711

Dear Governor Perry:

Based on the most recent air quality data, the U.S. Environmental Protection Agency (EPA) has determined that one area in TX does not meet the 2008 National Ambient Air Quality Standards (NAAQS) for lead. As directed by the Clean Air Act, EPA is designating this area nonattainment. I appreciate the information that TX shared with EPA as we take this step to inform citizens about their air quality and begin the process of protecting public health by reducing lead levels in the air.

The enclosed table lists the area within TX that EPA is designating as nonattainment in this initial round of designations. For this area you will need to take action to reduce lead emissions.

Reducing levels of lead pollution is an important part of EPA's commitment to a clean, healthy environment. Lead exposure can cause a range of adverse health effects, most notably in children. Exposures to low levels of lead early in life have been linked to effects on Intelligence Quotient, learning, memory and behavior.

On October 15, 2008, EPA substantially strengthened the NAAQS for lead. The level of the 2008 lead standards, set at 0.15 micrograms per cubic meter, is 10 times tighter than the previous standards. In conjunction with strengthening the lead standards, EPA improved the existing lead monitoring network by requiring monitors to be placed in areas with sources, such as industrial facilities, that emit one ton or more per year of lead, and at other sites.

The Clean Air Act requires EPA to complete the process of designating areas as "nonattainment", "attainment", or "unclassifiable" within two years of establishing a new or revised NAAQS. EPA may extend the designation process by up to one year if the agency has insufficient information to make these designations. Because the expanded lead monitoring network will provide additional data for consideration next year, EPA will complete the lead designations in two rounds. In the first round, which is being finalized today, EPA is designating

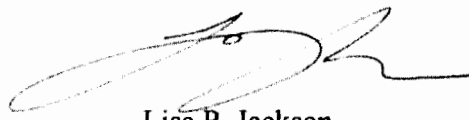
as "nonattainment" any area that is violating the 2008 lead standards based on data from the pre-2010 monitoring network. For all other areas, EPA is extending the deadline for designations by up to one year so that data from the newly deployed monitors can be considered in making appropriate designation decisions. EPA will complete the second round of lead designations by October 15, 2011.

Accordingly, EPA is deferring designation decisions for the rest of TX for up to one additional year so that additional lead air quality data can be collected and evaluated. As we mentioned in our letter sent to you on June 15, 2010, if you would like to submit updated recommendations for the rest of your state for our consideration in the second round of designations, please do so by December 15, 2010. For the second round of designations, EPA will notify states and tribes of our preliminary responses to their recommendations no later than June 17, 2011.

For areas designated nonattainment at this time, states must develop a State Implementation Plan (SIP) that meets the requirements of the Clean Air Act. These SIPs must be submitted to EPA by June 30, 2012. The nonattainment areas must attain the lead NAAQS as expeditiously as practicable but no later than December 31, 2015. Staff in your EPA regional office is available to answer questions and discuss these matters with your staff.

Thank you for your continued work to improve air quality. We look forward to working with you and your staff to reduce lead in the air. For additional technical information, please visit <http://www.epa.gov/leaddesignations>. If you have further questions, please contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", with a stylized, flowing script.

Lisa P. Jackson

Enclosure

cc: Mr. Bryan W. Shaw, Ph.D.  
Chairman, Texas Commission on Environmental Quality

**Enclosure – Initial Nonattainment Areas, Texas**

<b>State</b>	<b>Area Name</b>	<b>County Name</b>
Texas	Frisco	Collin (p)

(p) – partial county

AX-05-001-4287



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 22 2005

THE ADJUTANT GENERAL

Governor Rick Perry  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

Re: Fuel Waiver Concerning RFG in Houston/Galveston and Dallas/Fort Worth RFG  
Covered Areas, September 2005

Dear Governor:

On September 21, 2005, pursuant to Section 211(c)(4)(C) of the Clean Air Act (CAA), I waived the reformulated gasoline (RFG) requirements for the Houston/Galveston RFG covered area. I issued this waiver as a result of gasoline supply shortages caused by the temporary shutdown of refineries and terminals and the mandatory and voluntary evacuations in Texas' coastal areas resulting from Hurricane Rita. The Texas Commission on Environmental Quality (TCEQ) has informed the United States Environmental Protection Agency (EPA) that Hurricane Rita is also likely to cause gasoline supply shortages in the Dallas/Fort Worth RFG covered area, and has requested that EPA expand the waiver to include this area.

EPA, in consultation with the Department of Energy and TCEQ continues to evaluate the prospect of gasoline supply problems being experienced as a result of Hurricane Rita. Based on this evaluation, I have determined that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of RFG to the Houston/Galveston and Dallas/Fort Worth RFG covered areas.<sup>1</sup> CAA §211(c)(4)(C). This fuel circumstance is the result of Hurricane Rita, a natural disaster, that could not reasonably have been foreseen or prevented and is not attributable to a lack of prudent planning on the part of the suppliers of the fuel to this area. Id. Furthermore, I have determined that it is in the public interest to grant this waiver and that this waiver applies to the smallest geographic area necessary to address the fuel supply circumstances.

We recognize the environmental benefits of the RFG program. However, to minimize or prevent problems with the supply of gasoline, I am today issuing this expanded waiver of the RFG requirements for the Houston/Galveston and Dallas/Fort Worth RFG covered areas until midnight on September 30, 2005. Thus, EPA will allow regulated parties to distribute and sell

<sup>1</sup> The counties in these two RFG covered areas include: Brazoria, Chambers, Collin, Dallas, Denton, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant and Waller counties. See 40 C.F.R. § 80.70.

Internet Address only: • <http://www.epa.gov>

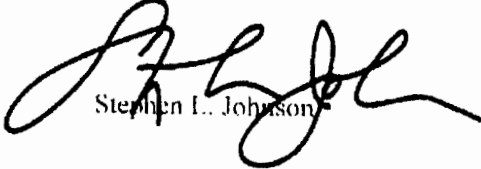
Recycled/Recyclable content with vegetable inks from 100% recycled paper (minimum 10% recycled fiber)

conventional gasoline (CG) in the Houston/Galveston and Dallas/Fort Worth RFG covered areas. After September 30, 2005, regulated parties may not introduce CG into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the Houston/Galveston and Dallas/Fort Worth RFG covered areas. However, no later than November 1, 2005, the gasoline dispensed from such terminal tanks for distribution and sale in these covered area must meet all RFG standards. Retailers and wholesale purchaser-consumers may continue selling or dispensing CG in the Houston/Galveston and Dallas/Fort Worth RFG covered areas until their supplies are depleted.

To the extent practicable and consistent with supplying market demands for gasoline (i.e., where tankage is available), regulated parties should take steps to segregate and supply gasoline that meets the RFG regulations. In addition, refiners and importers that provide CG to the Houston/Galveston or Dallas/Fort Worth covered areas pursuant to this waiver should exclude the waiver gasoline from their annual average compliance calculations under 40 C.F.R. § 80.67.

If you have questions please call me, or your staff may call Adam M. Kushner at 202-564-2260.

Sincerely,



Stephen L. Johnson

cc: Secretary Samuel W. Bodman, Department of Energy

R. Lee Harnett White, *Chairman*  
 R. B. "Randy" Marquez, *Commissioner*  
 Larry R. Howard, *Commissioner*  
 Glen Shackle, *Executive Director*



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 23, 2005

Mr. Grant A. Nakayama  
 Assistant Administrator  
 Office of Enforcement and Compliance  
 United States Environmental Protection Agency  
 1200 Pennsylvania Avenue  
 Washington, D.C. 10460

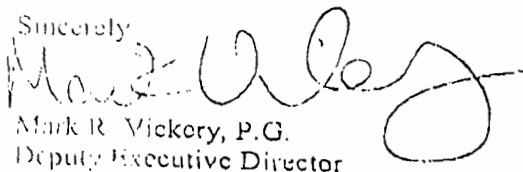
Re: Request for Fuel Waiver of Texas Low Emission Diesel Requirements Due to Hurricane Rita

Dear Mr. Nakayama:

As a result of Hurricane Rita, diesel supply shortages in the Houston and Dallas-Fort Worth areas are likely due to both the temporary shutdown of refineries and terminals and mandatory and voluntary evacuations in Texas' coastal areas. The Texas Commission on Environmental Quality (TCEQ) is requesting that the United States Environmental Protection Agency issue a fuel waiver to extend the compliance dates of the Texas Low Emission Diesel Requirements by 30 days. The rule currently applies to producers and importers beginning October 1, 2005, bulk plant distribution facilities beginning November 15, 2005, and retail fuel dispensing outlets, wholesale bulk purchaser/consumer facilities, and all other affected persons beginning January 1, 2006. A waiver is requested to allow an extension of each of these dates 30 days due to Hurricane Rita.

If you have any questions, please feel free to contact Mr. David C. Schanbacher, Chief Engineer, at (512) 239-1228.

Sincerely,

  
 Mark R. Vickory, P.G.  
 Deputy Executive Director

George  
Lawrence/DC/USEPA/US  
10/18/2005 02:18 PM

To Starmann.Allison@epamail.epa.gov@EPA  
Johnpc Fogarty/DC/USEPA/US@EPA, Adam  
cc Kushner/DC/USEPA/US, Randy Hill/DC/USEPA/US@EPA,  
Don Zinger/DC/USEPA/US@EPA  
bcc  
Subject Fuels waiver today

Allison,

Here is the Texas Low Emissions Diesel (TXLED) waiver extension that is being submitted for signature by the Administrator today. This waiver is in response to a request from Texas for a 30 day waiver, through October 30, to conform to the state's waiver of its state requirement. The original EPA waiver was for 20 days and expires on October 20. Today's waiver adds the remaining 10 days. It has concurrence of OAR, OGC and DOE. OAR is confirming with the state that the waiver letter can be posted on the WEB.



10.18.05 TXLED waiver extension.wpd

Please let me know if you need anything else from me.

Thanks!

George Lawrence  
202-564-1307  
fax: 202-564-0069



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 18 2005

THE ADMINISTRATOR

The Honorable Rick Perry  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

Re: Second Texas Low Emission Diesel Fuel Waiver

Dear Governor Perry:

I am writing in response to the September 23, 2005 letter of Mark R. Vickery, Deputy Executive Director of the Texas Commission on Environmental Quality (TCEQ), in which he requests that the United States Environmental Protection Agency (EPA) issue a waiver to extend the compliance dates of the Texas Low-Emission Diesel (TXLED) requirements in its Federally-enforceable State Implementation Plan (SIP) for a total of 30 days. The SIP requires that producers and importers comply with the TXLED program beginning October 1, 2005, bulk plant distribution facilities beginning November 15, 2005, and retail fuel dispensing outlets, wholesale bulk purchaser-consumer facilities and all other affected persons beginning January 1, 2006. 70 Fed. Reg. 17,321 (April 6, 2005). On September 23, 2005, TCEQ granted enforcement discretion that extended the applicable effective dates of the State's TXLED program by 30 days.

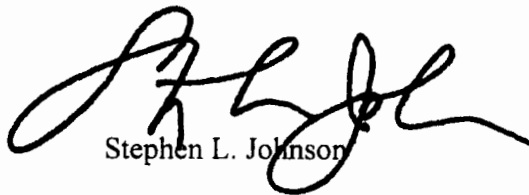
As you know, on September 27, 2005, I issued a waiver to extend the compliance dates of the TXLED program for 20 days, the maximum amount of time statutorily allowed for fuel waivers. Since issuance of the initial waiver, we have continued to monitor the situation. In addition, TCEQ has continued to request that EPA extend the compliance dates for the TXLED program by a total of 30 days, due to the impacts of Hurricane Rita which have caused a shortage of diesel fuel in Texas.

EPA, in consultation with the Department of Energy and TCEQ continues to evaluate the prospect of diesel fuel supply problems being experienced as a result of Hurricane Rita. Based on this evaluation, I have determined that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of TXLED. CAA §211(c)(4)(C). This fuel circumstance is the result of Hurricane Rita, a natural disaster, that could not reasonably have been foreseen or prevented and is not attributable to a lack of prudent planning on the part of the suppliers of the fuel to this area. Id. Furthermore, I have determined that it is in the public interest to grant this waiver.

I recognize the environmental benefits of the TXLED program. However, to minimize or prevent problems with the supply of diesel fuel, I am today issuing this second waiver of the TXLED requirements until midnight on October 31, 2005, for producers and importers, December 15, 2005, for bulk plant distribution facilities, and January 31, 2006, for retail fuel dispensing outlets, wholesale bulk purchaser-consumer facilities and all other affected persons.

If you have questions please call me, or your staff may call Adam M. Kushner at 202-564-2260.

Sincerely,



Stephen L. Johnson

cc: Secretary Samuel W. Bodman, Department of Energy

OAR-10-001-7511



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**NOV 16 2010**

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
State Capitol  
Austin, TX 78711

Dear Governor Perry:

Based on the most recent air quality data, the U.S. Environmental Protection Agency (EPA) has determined that one area in TX does not meet the 2008 National Ambient Air Quality Standards (NAAQS) for lead. As directed by the Clean Air Act, EPA is designating this area nonattainment. I appreciate the information that TX shared with EPA as we take this step to inform citizens about their air quality and begin the process of protecting public health by reducing lead levels in the air.

The enclosed table lists the area within TX that EPA is designating as nonattainment in this initial round of designations. For this area you will need to take action to reduce lead emissions.

Reducing levels of lead pollution is an important part of EPA's commitment to a clean, healthy environment. Lead exposure can cause a range of adverse health effects, most notably in children. Exposures to low levels of lead early in life have been linked to effects on Intelligence Quotient, learning, memory and behavior.

On October 15, 2008, EPA substantially strengthened the NAAQS for lead. The level of the 2008 lead standards, set at 0.15 micrograms per cubic meter, is 10 times tighter than the previous standards. In conjunction with strengthening the lead standards, EPA improved the existing lead monitoring network by requiring monitors to be placed in areas with sources, such as industrial facilities, that emit one ton or more per year of lead, and at other sites.

The Clean Air Act requires EPA to complete the process of designating areas as "nonattainment", "attainment", or "unclassifiable" within two years of establishing a new or revised NAAQS. EPA may extend the designation process by up to one year if the agency has insufficient information to make these designations. Because the expanded lead monitoring network will provide additional data for consideration next year, EPA will complete the lead designations in two rounds. In the first round, which is being finalized today, EPA is designating

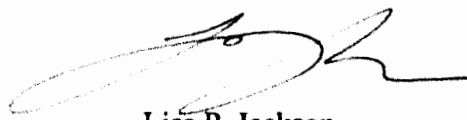
as "nonattainment" any area that is violating the 2008 lead standards based on data from the pre-2010 monitoring network. For all other areas, EPA is extending the deadline for designations by up to one year so that data from the newly deployed monitors can be considered in making appropriate designation decisions. EPA will complete the second round of lead designations by October 15, 2011.

Accordingly, EPA is deferring designation decisions for the rest of TX for up to one additional year so that additional lead air quality data can be collected and evaluated. As we mentioned in our letter sent to you on June 15, 2010, if you would like to submit updated recommendations for the rest of your state for our consideration in the second round of designations, please do so by December 15, 2010. For the second round of designations, EPA will notify states and tribes of our preliminary responses to their recommendations no later than June 17, 2011.

For areas designated nonattainment at this time, states must develop a State Implementation Plan (SIP) that meets the requirements of the Clean Air Act. These SIPs must be submitted to EPA by June 30, 2012. The nonattainment areas must attain the lead NAAQS as expeditiously as practicable but no later than December 31, 2015. Staff in your EPA regional office is available to answer questions and discuss these matters with your staff.

Thank you for your continued work to improve air quality. We look forward to working with you and your staff to reduce lead in the air. For additional technical information, please visit <http://www.epa.gov/leaddesignations>. If you have further questions, please contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", with a stylized flourish at the end.

Lisa P. Jackson

Enclosure

cc: Mr. Bryan W. Shaw, Ph.D.  
Chairman, Texas Commission on Environmental Quality

**Enclosure – Initial Nonattainment Areas, Texas**

<b>State</b>	<b>Area Name</b>	<b>County Name</b>
Texas	Frisco	Collin (p)

(p) – partial county



OAR-11-001-8098

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

November 8, 2011

THE ADMINISTRATOR

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711-2428

Dear Governor Perry:

Today, the U.S. Environmental Protection Agency is completing area designations for the 2008 Lead National Ambient Air Quality Standards. Based on the most recent air quality monitoring data, the EPA is designating portions of Texas as unclassifiable/attainment and portions as nonattainment. In addition, I note that areas within Texas were designated as nonattainment in the initial round of designations approximately 1-year ago. I appreciate the information that Texas shared with the EPA throughout this process as we take this step to inform citizens about their air quality and continue the process of protecting public health by reducing lead levels in the air where necessary.

The enclosed table lists how the EPA is designating areas within Texas during this round and an earlier round of area designations. Areas designated nonattainment will need to take action to reduce lead emissions.

Reducing levels of lead pollution is an important part of the EPA's commitment to a clean, healthy environment. Lead exposure can cause a range of adverse health effects, most notably in children. Exposures to low levels of lead early in life have been linked to effects on Intelligence Quotient, learning, memory and behavior.

On October 15, 2008, the EPA substantially strengthened the National Ambient Air Quality Standards for lead. The level of the 2008 lead standards, set at 0.15 micrograms per cubic meter, is 10 times tighter than the previous standards. In conjunction with strengthening the lead standards, the EPA has improved the existing lead monitoring network by requiring monitors to be placed in areas with sources, such as industrial facilities, that emit one-half ton or more per year of lead, and at other sites.

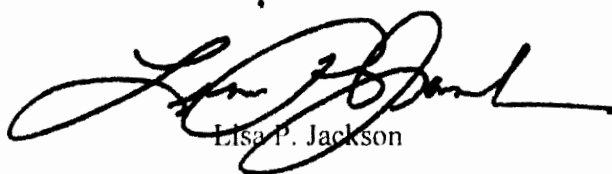
The Clean Air Act requires the EPA to complete the process of designating areas within two years of establishing a new or revised air quality standard. The EPA may extend the designation process by up to one year if the agency has insufficient information to make these designations. Because the expanded lead monitoring network provided additional data for consideration, the EPA is completing the lead designations in two rounds. In the first round, established on November 16, 2010, the EPA designated as "nonattainment" 16 areas that violated the 2008 Lead National Ambient Air Quality Standards based on data from the pre-2010 monitoring network. For all other areas, the EPA extended the deadline for

designations by up to one year so that data from the newly deployed monitors could be considered in making appropriate designation decisions. States and tribes were given an opportunity to update their recommendation letters for those remaining areas for our consideration in the second round of designations by December 15, 2010. The EPA notified states and tribes of our preliminary responses to their recommendations on June 15, 2011.

For areas designated nonattainment at this time, states must develop a State Implementation Plan that meets the requirements of the Clean Air Act. These State Implementation Plans must be submitted to the EPA by June 30, 2013. The nonattainment areas must attain the Lead National Ambient Air Quality Standards as expeditiously as practicable, but no later than December 31, 2016. Staff in your EPA regional office is available to answer questions and discuss implementation matters further with your staff.

Thank you for your continued work to improve air quality. We look forward to working with you and your staff to reduce lead in the air. For additional technical information, please visit <http://www.epa.gov/leaddesignations>.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", is written over a printed name.

Lisa P. Jackson

Enclosure

**Enclosure – Initial Area Designation, Texas**

<b>State</b>	<b>Area Name</b>	<b>County Name</b>	<b>Designation</b>
Texas	Frisco	Collin (p)	Nonattainment*
Rest of State – Unclassifiable/Attainment			

(p) – partial county

\* Established in first round of area designations - November 16, 2010



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OAR-12-000-0371

JAN 20 2012

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711-2428

THE ADMINISTRATOR

Dear Governor Perry:

The U.S. Environmental Protection Agency today is completing area designations for the 2010 Primary Nitrogen Dioxide National Ambient Air Quality Standard. Available air-monitoring data from 2008-10 show no violations of the standard within your area. Accordingly, the EPA is designating all of the area in Texas as "unclassifiable/attainment."

As you know, the EPA on January 22, 2010, strengthened the National Ambient Air Quality Standard for NO<sub>2</sub>; it is now a new 1-hour standard of 100 parts per billion. Along with strengthening the NO<sub>2</sub> standard, the EPA required changes to the existing NO<sub>2</sub> monitoring network by requiring monitors in large urban areas and near major roads where the public might be exposed to unhealthy levels of NO<sub>2</sub>.

The EPA and state and tribal agencies are currently working to establish an expanded network of NO<sub>2</sub> monitors, expected to be deployed in 2013. Once three years of air-quality data have been collected from the expanded network, the EPA will be better able to determine NO<sub>2</sub> air quality in additional locations.

Within two years of establishing a new or revised air-quality standard, the Clean Air Act requires the EPA to complete the process of designating areas as meeting or not meeting the standard. The EPA notified states and tribes of our preliminary responses to their recommendations for area designations on June 29, 2011. For additional information, please visit <http://www.epa.gov/airquality/nitrogenoxides/designations/>.

Ensuring that levels of NO<sub>2</sub> pollution remain below the 2010 standard is an important part of the EPA's commitment to a clean, healthy environment. NO<sub>2</sub> exposure can cause a range of adverse health effects, including increased asthma symptoms, more difficulty controlling asthma and an increase in respiratory illnesses and symptoms.

I appreciate the information that Texas shared with the EPA as we take this step to inform citizens about their air quality and continue our efforts to protect public health. We look forward to working with you and your staff to continue to protect air quality. If you have questions, please contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178.

Sincerely,

Lisa P. Jackson

Internet Address (URL) • <http://www.epa.gov>